

### **37.115.101 PURPOSE AND APPLICABILITY**

(1) The intent of ARM Title 37, chapter 115, subchapters 1 through 22 is to help assure a safe and sanitary environment in and around public swimming pools, spas, and other water features.

(2) This chapter defines public swimming pools, spas, and other water features; establishes minimum standards for the construction, maintenance, and operation of public swimming pools, spas, and other water features and related facilities; regulates the inspection of such features and facilities; and provides for the enforcement of this chapter.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.104 REQUIRED UPGRADING TO EXISTING FACILITIES AND OPERATIONS**

(1) Existing licensed public swimming pools, spas, or other water features that were in use or under construction prior to March 1, 2010 and which do not fully comply with the upgraded requirements for the physical plants set out in ARM Title 37, chapter 115, subchapters 5 through 10, but met the rules in effect at the time of construction, may continue to be operated as long as the facility meets the requirements of the grandfather clause in ARM [37.115.1905](#) and the operating requirements in this chapter, poses no significant health or safety risks, and is operated and maintained as designed, except that:

(a) Existing pools with slopes that exceed 1:3 in a deep end or diving well are exempt from this requirement until major renovations are proposed to the department in a plan review.

(b) Existing public swimming pools, spas, and other water features, must comply with the barrier requirements set out in subchapter 6 by December 31, 2013. Facilities that do not meet this requirement will not be licensed after December 31, 2013.

(c) Existing wading pools that are permanent structures and that use the daily fill and drain method of operation in conjunction with hand or manual chlorination shall not be licensed and may not operate after December 31, 2010. No wading pool may be operated unless the wading pool complies with the requirements of the Virginia Graeme Baker Pool and Spa Safety Act, 15 USC 8001-8005 (2007) (VGBPSSA).

(d) Diving boards may not be used in any pool designed before or after March 1, 2010 until the pool and diving board meets the requirements of ANSI-I-1991 or ARM [37.115.801](#) through [37.115.807](#).

(e) License holders of indoor pools, spas, or other water features that currently use isocyanurates or forms of chlorine stabilized with cyanuric acid as a disinfectant must convert to an unstabilized disinfectant system no later than March 1, 2011.

(f) All pools, spas, and other water features must comply with the VGBPSS Act. Licensees are responsible for compliance with the VGBPSSA.

(2) All swimming pools, spas, and other water features must meet the operating requirements set in these rules with the following exception:

(a) current licensees of any swimming pools, spas, or other water features, do not need to meet the requirement of having an operator who meets the qualifications set in ARM [37.115.1101](#) until December 31, 2011.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.105 DEFINITIONS**

In addition to the definitions in [50-53-102](#), MCA, the following definitions apply to these rules.

(1) "Accessible" means readily available for inspection or replacement of parts.

(2) "Activity pool" means any pool designed primarily for play activity that uses constructed features and devices such as, but not limited to, lily pad walks, flotation devices, small slide features, and similar attractions.

(3) "Adult supervision" means a situation whereby a child at rest or play is within the constant sight and hearing of an adult, age 18 or over, who is charged with safeguarding the child. Adult supervision must be of a nature that is uninterrupted, meaning that it is without absences, voids, or distractions that separate adult from child by distance, obstacles, or any hindrance to sight and sound communication.

(4) "Algae" means microscopic plant-like organisms that contain chlorophyll. These organisms include green, blue-green or black, brown, and yellow-green (mustard) algae.

(5) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from an inlet pipe and the flood-level rim of a receptacle or floor drain.

(6) "Algaecide" means a natural or synthetic substance used for killing, destroying, or controlling algae growth.

(7) "Alkalinity" means a measure of the amount of bicarbonate, carbonate, or hydroxide compounds present in a water solution. It is the buffering potential for water to change pH.

(8) "ASME" means the American Society of Mechanical Engineers.

(9) "ANSI" means the American National Standards Institute.

(10) "ANSI/NSPI-1 2003" means the American National Standards Institute and National Spa and Pool Institute, Standards for Public Swimming Pools, approved March 10, 2003.

(11) "ANSI/NSPI-2 1999" means the American National Standards Institute and National Spa and Pool Institute, Standards for Public Spas, approved February 4, 1999.

(12) "Antivortex drain cover or plate" means a plate or cover that is affixed to the main outlet of a swimming pool, spa, or other water feature that prevents a vortex from forming as water passes through to the main outlet. Some industry standards may use the term, "Listed Suction Outlet Cover/Grate" to describe this safety feature. See "Listed suction outlet covers".

(13) "Attendant" is a term used with regard to public swimming pools, spas, or other water features that do not require lifeguards. It means a person who oversees the use of a public swimming pool, spa, or other water feature by bathers and provides supervision of the facility and basic assistance to bathers in need. Each attendant must be currently certified by the American Red Cross or American Heart Association in infant, child, and adult cardiopulmonary resuscitation (CPR), and American Red Cross or American Heart Association standard first aid. Attendants must be at least 15 years of age.

(14) "Automated external defibrillator (AED)" means a medical device heart monitor and defibrillator that is approved by the U.S. Food and Drug Administration.

(15) "Backwash" means the process of thoroughly cleansing the filter media and/or elements by reverse water flow.

(16) "Barrier" means a fence, wall, or an enclosed room that is accessible only by a key or electronic card, or other method used to completely surround the public swimming pool, spa, or other water feature and to obstruct or restrict access to it.

(17) "Bather" means any person authorized by the owner, licensee, or certified operator to use a pool, spa, or other water feature or adjoining deck area for the purpose of water sports, therapy, swimming, sunbathing, or related activities.

(18) "Bathhouse" means a structure that contains dressing rooms, showers, and toilet facilities for use at a public bathing place or adjacent to a public swimming pool, spa, or other water feature.

(19) "Bather load" means the maximum number of persons that could be in the pool, spa, or other water feature at any given moment or during any stated period of time. Bather load for a pool, spa, or other water feature are calculated as provided in [ARM 37.115.515](#).

(20) "Breakpoint chlorination" means the addition of a sufficient amount of chlorine to water to destroy the combined inorganic compounds present.

(21) "Bromine" means a chemical element that exists as a liquid in its elemental form or as part of a chemical compound which is a bacteriological agent used to disinfect swimming pool water.

(22) "Brominator" means a device used to apply or deliver a bromine disinfectant to water at a controlled rate. It may also be called a bromine feeder.

(23) "Cardiopulmonary Resuscitation (CPR)" means a lifesaving technique involving chest compressions and/or mouth-to-mouth breathing, to circulate oxygenated blood to vital organs.

(24) "Cartridge" means a depth, pleated, or surface type filter component with fixed dimensions designed to remove suspended particles from water flowing through the filter.

(25) "Catch pool" means a body of water located at the terminus of a manufactured water slide attraction that is provided for the purpose of terminating the slide action and providing a route for exit to a deck or walkway area.

(26) "Certified pool operator" means someone who has successfully completed the Certified Pool Operator (CPO) course sanctioned by the National Swimming Pool Foundation, the Aquatic Facility Operator (AFO) course sanctioned by the National Recreation and Park Association, or an equivalent course approved by the department. A certified pool operator must be currently certified, recertified, or must have obtained any Continuing Education Units (CEUs) required by the sanctioning organization.

(27) "Chemical feeder" means a mechanical device used for adding chemicals to the water circulating in a pool, spa, or other water feature.

(28) "Chlorinator" means a device used to apply or to deliver a chlorine sanitizer to water at a controlled rate.

(29) "Chloramines" means compounds that are formed when free chlorine combines with nitrogen-containing compounds such as perspiration or ammonia. They can cause eye and skin irritation, have strong objectionable chlorine-type odors, and low sanitizing capability. Also see "Combined residual chlorine".

(30) "Chlorine" means a chemical agent that exists as a gas in its elemental form or as a part of a chemical compound which is an oxidant. It is a bacteriological agent used to disinfect the water in pools, spas, or other water features.

(31) "Chlorine demand compounds" means organic matter, chloramines, and other compounds that react with chlorine and deplete it.

(32) "Chlorine generator" means equipment that produces chlorine, hypochlorous acid, or hypochlorite on-site for disinfection and oxidation of water contaminants.

(33) "Circulation equipment" means the mechanical components that are a part of a circulation system on a pool, spa, or other water feature. The components have different functions but when connected to each other by piping, perform as a coordinated system for purposes of maintaining water in a clear, sanitary, and desirable condition. The term "recirculation" may be used interchangeably with the term "circulation". Some components of circulation equipment include, but are not limited to:

- (a) pumps;
- (b) hair and lint strainers;
- (c) filters;
- (d) valves;
- (e) gauges;
- (f) meters;
- (g) heaters;
- (h) surface skimmers;

- (i) inlet/outlet fittings; and
- (j) chemical feeding devices.

(34) "Circulation system" means the arrangement of mechanical equipment components, connected by piping to and from a pool, spa, or other water feature, causing it to flow through the various system components for purposes of:

- (a) clarifying;
- (b) heating;
- (c) disinfection; and
- (d) returning the water back to the original body of water.

(35) "Clarifier" means a chemical that coagulates and neutralizes suspended particles in water. It can also mean coagulant or flocculent. Examples are inorganic salts of aluminum or iron, and water soluble organic polyelectrolyte polymers.

(36) "Combined residual chlorine" means the portion of the total residual chlorine existing in water in chemical combination with ammonia, nitrogen, and/or organic compounds, mostly comprised of chloramine. The combined chlorine number is the result of subtracting the free residual chlorine levels from the total chlorine levels, as determined by a test kit.

(37) "Contaminant" means any physical, chemical, biological, or radiological substance, or matter in water.

(38) "Critical point inspection" means an inspection performed by the department or its designee that minimally addresses critical health and safety violations outlined in ARM [37.115.301](#) and [37.115.302](#), and would include other health and safety violations that may be present, or are pending from prior inspections.

(39) "Critical safety violation" means a health or safety violation that has the potential to imminently cause or result in water contamination illness, serious injury or death, or an environmental or safety hazard. When a critical safety violation occurs, the public swimming pool, spa, or other water feature, or the portion of the facility affected must be closed until the violation has been corrected. Critical safety violations are listed in ARM [37.115.301](#) and [37.115.302](#).

(40) "Cross connection" means a physical connection between the potable water system and a nonpotable water source such as a pool, spa, or other water feature. The term also indicates the physical connection between a pool, spa, or other water feature and the sanitary sewer or waste water disposal system.

(41) "Cyanuric Acid (CYA)" is a stabilizer chemical which helps reduce the loss of chlorine in outdoor swimming pools due to the action of ultraviolet rays of the sun. It accumulates on the various surfaces of pools. High levels of CYA require adjustments to pool alkalinity.

(42) "Deck" means an area immediately adjacent to or attached to a pool, spa, or other water feature that is specifically constructed or installed for sitting, standing, or walking.

(43) "Deep area" means the portion of any pool, spa, or other water feature that has a water depth of five feet or more.

(44) "Department" means the Department of Public Health and Human Services (DPHHS) provided for in [2-15-2201](#), MCA and its authorized representatives and local boards of health and their authorized representatives who conduct inspections and enforcement actions on behalf of the department.

(45) "Depth" means the vertical distance measured from the bottom of the pool, spa, or other water feature to the designed or actual water level. The measurement must be taken three feet out from the wall of the pool, spa, or other water feature.

(46) "Disinfectant" (sanitizer) means any oxidant, which includes but is not limited to, chlorine, chlorine dioxide, bromine, chloramines, and ozone that is added to water in any part of the treatment or distribution process and that is intended to kill or inactivate pathogenic microorganisms.

(47) "Disinfection" (sanitizing) means the process of destroying organisms that may cause illness.

(48) "Diving board" means a recreational mechanism for entering a pool, consisting of a semi-rigid board which derives its elasticity through the use of a fulcrum mounted below the board.

(49) "Diving envelope" is the area of a pool that is designed for safe diving. Diving area is the same thing.

(50) "Diving platform" is a stationary platform designed for diving.

(51) "DPD" means diethyl-phenylene diamine. It is the only acceptable test method that specifically measures bromine or free available and total residual chlorine levels.

(52) "Effluent" means the outflow water from a filter, pump, pool, spa, or other water feature.

(53) "Employee" means any or all of the following persons who perform any work at a public swimming pool, spa, or other water feature. The term employee includes:

- (a) the owner;
- (b) a licensee;
- (c) a certified operator;
- (d) a person in charge;
- (e) a person having supervisory or management duties;
- (f) a person on the payroll;
- (g) a family member;
- (h) a volunteer;
- (i) a person performing work under a contractual agreement; or
- (j) any other person performing work.

(54) "Equalizer line" means a pipe located below the water level that draws water into the pump when the water level drops below the skimmer inlet.

(55) "Facility" means a public bathing place and includes any public swimming pools, spas, or other water features, bathhouses, restrooms, dressing rooms, equipment rooms, deck enclosures, and all other appurtenances directly serving the public bathing

place.

(56) "Feet of head" means the resistance in a hydraulic system based on the equivalent to the height of a column of water that causes the same resistance (100 feet of head equals 4.3 pounds per square inch). Also see "Total dynamic head".

(57) "Filter" means a device that separates solid particles from water by recirculation through a porous substance. The term filter includes the following types of filters:

(a) "cartridge filter" means a filter that utilizes a porous element that acts as a filter medium;

(b) "diatomaceous earth filter" means a filter that utilizes a thin coating of diatomaceous earth (DE) or other filter aid over a porous fabric as its filter medium;

(c) "permanent medium filter" means a filter that utilizes a filter medium such as sand; and

(d) "sand filter" means a filter using sand or sand and gravel as a filter medium.

(58) "Filter Medium" means a finely graded material such as sand, diatomaceous earth, polyester fabric or anthracite, that is used to trap solid particles from the influent water and to return clear water to the pool, spa, or other water feature.

(59) "Floor" means those portions of the interior pool surface having a slope of no more than 45 degrees from horizontal.

(60) "Flow-through hot springs pool" means a hot springs pool in which the water is continually flowing and in which the water volume exchange is sufficient to produce a turnover of the entire volume of pool water to waste water discharge every eight hours.

(61) "Flow meter" is a device that measures the rate of flow of water or other liquid through piping.

(62) "Flow rate" means the quantity of water flowing past a designated point within a specified time. It is usually expressed as "gallons per minute".

(63) "Flume" means a trough-like or tubular structure with water that is generally recognized as a water slide that directs the path of travel and the rate of descent by the rider.

(64) "Flume slide" is a slide or slides of various configurations that are characterized by having deep riding channels, vertical and lateral curves, high water flows and which accommodate riders who may or may not use mats, tubes, rafts, and other transport vehicles. The term includes, but is not limited to, family raft rides, inner-tube rides, body slides, and speed slides.

(65) "Free available chlorine" means the portion of the total chlorine remaining in chlorinated water that is not combined with ammonia, nitrogen, or other organic compounds and that will react chemically with undesirable or pathogenic organisms.

(66) "Full facility inspection" means an inspection performed by the department that addresses compliance with all applicable rules, including review of records.

(67) "Gutter" means an overflow trough in the perimeter wall of a pool or spa that is a component of the circulation system or where excess water can flow to a waste water discharge outlet.

(68) "Handrail" is a support device that is intended to be gripped by a user for the purpose of resting or steadying. It is typically located within or at exits to the pool, or spa, or a part of a set of steps.

(69) "Hardness" means the amount of calcium and magnesium salts dissolved in water. It is measured by a test kit and expressed as parts per million (ppm) of equivalent calcium carbonate.

(70) "Hot springs pool" means an indoor or outdoor structure or basin containing an artificial body of naturally hot water that is intended for swimming, soaking, or recreational bathing. The term includes but is not limited to hot springs spas, hot springs swimming pools, and hot springs wading pools.

(71) "Hot tub" means a spa.

(72) "Hydrotherapy pool" or "therapeutic pool" or "therapy pool" means a unit that may have a therapeutic use. Its features may include, but are not limited to:

(a) hydrotherapy jet circulation;

(b) hot water;

(c) cold water;

(d) mineral baths;

(e) air induction bubbles; or

(f) any combination thereof.

(73) "Influent" means water entering a filter, pool, or other device.

(74) "Interactive play attraction" means a manufactured water play device or a combination of water-based play devices in which water flow volumes, pressures, or patterns are intended to be varied by the bather without negatively influencing the hydraulic conditions of other devices. These address only the water treatment and filtration requirement for such attractions.

(75) "Invited guest" means an individual who is visiting a family member or friend and uses the privately owned pool, spa, or other water feature upon invitation.

(76) "Ladder" is a structure for ingress/egress that usually consists of two long parallel side pieces joined at intervals by crosspieces or "treads".

(77) "Langelier index" means a numerical calculation, based on the Langelier water balance equation that indicates whether the water may be corrosive or scale forming. Also known as "Saturation Index".

(78) "Lazy river" means a constructed water course through which people travel by use of flotation devices. They are manufactured streams of near-constant depth in which the water is moved by pumps or other means of propulsion to provide a river like flow that transports bathers over a defined path.

(79) "Lap pool" means any indoor or outdoor swimming pool with a minimum depth exceeding three feet six inches and a maximum depth not exceeding seven feet with a minimum length of 40 feet.

(80) "License" means the document issued by the department that authorizes a person to operate a public swimming pool, spa, or other water feature.

(81) "Licensee" means the person or other entity that is legally responsible for the operation of a public swimming pool, spa, or other water feature and any adjacent facility, and who possesses a valid license to operate the public swimming pool, spa, or other water feature.

(82) "Lifeguard" means a qualified person who is responsible for supervision and lifesaving at a licensed public bathing place or public swimming pool. Under this chapter, "lifeguard" means either a certified lifeguard or a licensed lifeguard with the certification or training as set forth in ARM [37.115.1603](#).

(83) "Listed suction outlet cover/grate" means a suction outlet cover/grate which has been tested, certified, and listed by a nationally recognized testing laboratory in accordance with ASME A112.19.8-2007.

(84) "Listed safety vacuum release system" means a safety vacuum release device tested and certified by a nationally recognized testing laboratory in accordance with ASME A112.19.8-2007 or ASTM F2387-04.

(85) "Local board of health" or "board" means a local board as defined in [50-1-101](#), MCA.

(86) "Local health officer" or "officer" means a local health officer as defined in [50-1-101](#), MCA.

(87) "Multisectional pool" is a pool that has a number of different uses such as zero entry pool, lazy river, and slide pool, but which may have interconnecting areas.

(88) "National Sanitation Foundation International" (NSFI or NSF), means an independent, nonprofit organization of scientists, engineers, educators, and others engaged in research and testing and in the development of standards in selected public health and environmental areas.

(89) "Nonself-contained hot tub" means a hot tub that is made of an acrylic or thermoplastic shell molded at the factory to comfortably fit the body's contours. It does not have water heating and circulating equipment as an integral part of the product, and may employ separate components such as an individual filter, pump, heater, and controls or assembled combinations of various components.

(90) "NTU" means Nephelometric Turbidity Unit (NTU). NTU is a means of measuring turbidity in a sample by using an instrument called a nephelometer. The normal measuring range is 0 to 100 NTUs. Also see "Turbidity".

(91) "Other regulatory authority" means another agency that may have jurisdiction over some aspect of the construction or operation of public swimming pools, spas, or other water features or related facilities. The term includes, but is not limited to, the Montana Department of Environmental Quality (DEQ), the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the Montana Department of Labor and Industry (DOLI), the United States Department of Justice (DOJ) and those agencies enforcing state and local building codes.

(92) "Oxidation reduction potential (ORP)" means the measurement of the oxidizing properties of any sanitizer being used in a pool, spa, or other water feature, and is measured in millivolts (mV) by an ORP meter. Also known as "high resolution reduction" or "HRR".

(93) "Oxidizers" means products used to destroy organic and inorganic contaminants in water.

(94) "Overflow gutter system" means overflows, gutters, surface skimmers, and surface collection systems of various design and manufacture used for removal of water from a pool, spa, or other water feature.

(95) "Ozone (O<sub>3</sub>)" means a gaseous molecule composed of three atoms of oxygen that is generated on-site and used for oxidation of water contaminants. Ozone can also be used to regenerate bromine from bromide ions and as a supplemental contact sanitizer in conjunction with an EPA-registered sanitizer that provides a constant residual.

(96) "Ozone contact concentration" means the amount of ozone that is dissolved in pool, spa, or other water feature.

(97) "Ozone generator" means a device that produces ozone, generally exposing oxygen or air to corona discharge or ultraviolet light.

(98) "Pathogens" means disease-causing microorganisms.

(99) "Parts per million (ppm)" means a unit of measurement of a chemical concentration which indicates the parts by weight in relation to one million parts by weight of water. It is equivalent to the term milligrams per liter (mg/l).

(100) "Person" means a person, firm, partnership, corporation, organization, or the state or any political subdivision of the state.

(101) "Person in charge" means the individual present at a public swimming pool, spa, or other water feature and the related facilities who is responsible for the operation at the time of inspection.

(102) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between zero and seven indicate acidity. Values between seven and 14 indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

(103) "Plaster" means a mixture of white cement and aggregate used as a type of interior finish, which is white or lightly tinted, and is applied to a concrete pool, spa, or other water feature.

(104) "Plumbing system" means:

(a) the water supply and distribution pipes;

(b) plumbing fixtures and traps;

(c) soil, waste, and vent pipes;

(d) sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and

(e) water-treating equipment.

(105) "Plummet line" means a vertical line extending from the center point of the front edge of the diving platform or springboard to the water's surface.

(106) "Plunge pool" means the pool located at the end of a flume. It is also known as a "catch pool".

(107) "Point A" means the point on the surface of the pool directly below the end of the diving board through which the plummet

line passes. All references in the diving envelope calculations are in reference to "Point A".

(108) "Public bathing place" means a facility with one or more artificial bodies of water with a restroom or other bathhouse facilities operated for persons other than only the owner's family or invited guests. Synonymous with "swimming area".

(109) "Public swimming pool" means an artificial pool and related facilities for swimming, bathing, wading, or other aquatic therapy or recreation. The term includes, but is not limited to, natural hot water pools, spas, splash decks, water slides, lazy rivers, and wave pools. The term does not include swimming pools located on private property, including the private common area property of owner-occupied condominium developments that is used for swimming or bathing only by the owner, members of the owner's family, or their invited guests. The term also does not include medicinal hot water baths for individual use. For purposes of these rules, a "swimming pool" or "pool" is either a privately owned public swimming pool or spa, or a public swimming pool as defined here:

(a) "Privately owned public swimming pool or spa" means any swimming pool, spa, or other water feature operated in conjunction with lodging facilities such as motels, hotels, campgrounds, apartments, and condominiums that are rented or leased; in conjunction with a health club or athletic club, or any other nongovernmentally owned or operated swimming pool, spa, or other water feature; or

(b) "Public swimming pool or spa" means any swimming pool, spa, or other water feature operated by a person as owner, licensee, lessee, or concessionaire, whether or not a fee is charged. Any person who is charged money or any other consideration to use the pool is not an invited guest for the purposes of this definition.

(110) "PSI" means pounds per square inch.

(111) "Pump" means a mechanical device, usually powered by an electric motor, which causes hydraulic flow and pressure for the purpose of filtration, heating, and circulation of pool, spa, or other water feature.

(112) "Pump capacity" means the volume of liquid a pump is capable of moving during a specified period of time against a given total head.

(113) "Pump curve" means a graph of performance characteristics of a given pump under varying horsepower, flow, and resistance factors. It is used in checking and sizing a pump.

(114) "Rate of flow" means the quantity of water flowing past a designated point within a specified time, such as the number of gallons flowing past during one minute.

(115) "Remodel" or "renovate" mean a substantial or material alteration. In the context of these rules, the terms mean the activity of restoring or upgrading all or part of a public bathing place or public swimming pool structure and its component parts. Remodeling or renovation may include rebuilding or replacing system components that are not identical or substantially similar to existing components such as pipes, drains, filtration systems, disinfectant systems, circulation systems, and/or pool decks that use different materials or different from the existing component or design. The terms do not include painting, replacing tile or caulk, other such cosmetic changes, or replacing a worn or broken component for the same component, such as replacing a pump with a pump that is identical or substantially similar.

(116) "Responsible adult" means an adult, age 18 or over, who is charged with safeguarding the child.

(117) "Return inlet" means the aperture or fitting through which water under pressure returns into the pool, spa, or other water feature.

(118) "Return piping" is the piping that is referred to as effluent, returning water to the pool or spa.

(119) "Ring buoy" means a ring-shaped floating buoy capable of supporting a bather, and which has an attached rope.

(120) "Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in the water of a public swimming pool, spa, or other water feature.

(121) "Rope and float line" or "float line" means a continuous line not less than one-half inch in diameter, which is supported by buoys and attaches to opposite sides or ends of a pool to separate the deep and shallow ends in a pool that is greater than five feet in depth. A rope and float line may also be used to separate pools of different uses or types.

(122) "Safety Vacuum Release System (SVRS)" is a system or device capable of providing vacuum release at a suction outlet in case of a high vacuum occurrence due to a suction outlet flow blockage.

(123) "Sanitizer". See "Disinfectant".

(124) "Saturation index" means a mathematical calculation, based on the interrelation of temperature, calcium hardness, total alkalinity and pH, that predicts if pool water is corrosive, scale-forming, or neutral. It can also mean a number that indicates whether water will have a tendency to deposit calcium carbonate scale from a solution, or whether it will be potentially corrosive. When correctly balanced, the water will be neither scale-forming nor corrosive. Also see "Langelier Index".

Five factors are used in the computation:

(a) pH;

(b) total alkalinity;

(c) calcium hardness;

(d) temperature; and

(e) total dissolved solids (TDS).

(125) "Scale" means the precipitate that forms on surfaces in contact with water when the calcium hardness, pH, or total alkalinity levels are too high.

(126) "Self-contained hot tub" means a hot tub that has a cabinet that houses the controls, the pump, heater, and filter. Most portable hot tubs are made of an acrylic thermoplastic shell and are surrounded by a cabinet made of wood, alternative wood, or thermoplastic. It can be moved to another location and reinstalled, and all control, water heating, and water circulating equipment are an integral part of the product. It may be permanently wired or cord connected. It is also known as a "portable hot tub".

(127) "Self-closing or self-latching" means a device which causes a gate to automatically fully close and latch without human or electrical power.

(128) "Serious accident or injury" means any accident or injury:

(a) requiring emergency services response where a person requires medical treatment as determined by the emergency medical response personnel, including a drowning that does not result in death;

(b) resulting in a person seeking medical attention at a medical facility, hospital emergency room, or admittance to a hospital;

(c) requiring a lifeguard save of a drowning person; or

(d) resulting in a death.

(129) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(130) "Shallow area" means any portion of a pool where the water depth ranges from zero feet to five feet.

(131) "Shock treatment" means the practice of adding significant amounts of an oxidizing chemical to water to destroy organic and inorganic contaminants in the water.

(132) "Sight barrier" means a fence system that prevents entry but allows visual observation. Also see "Barrier".

(133) "Signal word" means a visual alerting device in the form of a decal or label placard or other marking such as an embossing, stamping, etching, or other process that advises the observer of the nature and degree of the potential hazard(s) that can cause property damage, injury, or death. It can also provide safety precautions, describe evasive actions to take, or provide other directions to eliminate or reduce a potential hazard. Aquatic safety signage shall conform to specifications as described in the ANSI Z-535 series of standards on product safety signs and labels. The following signal words mean:

(a) "CAUTION" indicates a potentially hazardous situation that, if not avoided, could result in minor or moderate injury. It may also be used to alert against unsafe practices;

(b) "WARNING" indicates a potentially hazardous situation that, if not avoided, could result in death or serious injury; and

(c) "DANGER" indicates an imminently hazardous situation that, if not avoided, will result in death or serious injury. This signal word is to be limited to the most extreme situations.

(134) "Skimmer" means a device installed in the pool, spa, or other water features that permits the removal of floating debris and surface water to the filter.

(135) "Skimmer cover" means a removable lid to close the deck opening to the skimmer housing.

(136) "Skimmer equalizer pipe" means a connection from the skimmer housing to the pool or spa below the weir that is sized to satisfy pump demand and prevent air lock or pump loss of prime.

(137) "Skimmer weir" means the part of a skimmer which adjusts automatically to small changes in water level to assure a continuous flow of water to the skimmer.

(138) "Slip-resistant" means a surface which has been treated or textured to significantly reduce the chance of a bather slipping in wet conditions.

(139) "Sodium hypochlorite" or "NaOCL" means a clear liquid form of an inorganic chlorine compound obtainable in concentrations of five to sixteen percent available chlorine, also known as liquid bleach or bleach.

(140) "Spa" means an artificial pool that is designed for recreational bathing or therapeutic use and is not drained, cleaned, or refilled for individual use. A spa includes, but is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot tub, or Jacuzzi-type whirlpool bath. A spa consists of a warm water reservoir with hydromassage jets.

(141) "Splash deck" means a constructed area over which water is sprayed or jetted to contact bathers, but is not allowed to gather and stand. A splash deck may also be known as an "Interactive Play Attraction", a "spray pool", or a "zero depth spray pool". Flow-through splash decks do not recirculate water through a filtration system; whereas recirculation splash decks reuse treated water.

(142) "Springline" means a line from which the pool wall breaks from vertical and begins its radius arc of the curvature (for cove construction) to the bottom of the pool.

(143) "Stabilizer" means a chemical which helps reduce the excess loss of residual chlorine in water due to ultraviolet rays of the sun. Also see "Cyanuric Acid".

(144) "Steps" means a riser and a tread or a series of risers and treads extending down from the deck and terminating at the pool floor. The term also includes recessed steps that are set into the pool wall.

(145) "Suction piping or influent piping" means piping that is connected to the suction side of the pump.

(146) "Suction outlet" means the aperture or fitting through which water under negative pressure is drawn from the pool, spa, or other water feature.

(147) "Superchlorination" means the rapid addition of a high dose of chlorine to water for the purpose of eliminating combined chlorine levels; reducing cloudy water, slime formation, musty odors, algae and bacteria counts; and/or improving the water's ability to maintain effective sanitizer residual. Also see "shock treatment" or "breakpoint chlorination".

(148) "Surge chamber" means a storage vessel within the recirculating system used to absorb the water displaced by bathers. Also known as "surge pit" or "surge tank".

(149) "Swimming area" means a facility with one or more artificial bodies of water and a restroom or other bathhouse facility that is operated for persons other than only the owner's family or invited guests. The term is synonymous with "public bathing place".

(150) "Tamperproof or vandal-proof" means requiring special tools to alter or remove portions of the equipment.

(151) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(152) "Test kit" means a device for monitoring or measuring a specific chemical residual or other parameter in the water of a

pool, spa, or other water feature.

(153) "Total alkalinity" means the ability of water to resist change in pH. It is also known as the buffering capacity of water, and consists mainly of carbonates, bicarbonates and hydroxides. Total alkalinity is measured with a DPD test kit and measured in parts per million (ppm).

(154) "Total available chlorine" or "total chlorine" means the sum of both free available and combined chlorine.

(155) "Total dissolved solids" or "TDS" means a measure of the total amount of dissolved matter in water including, but not limited to, calcium, magnesium, carbonates, bicarbonates, or metallic compounds.

(156) "Total Dynamic Head" or "TDH" is the sum of all resistances in a complete operating system. One pound per square inch is equivalent to 6.89 KiloPascal (kPa). One pound per square inch is also equivalent to 70.3 grams per square centimeter. One hundred feet of head is equivalent to 296.47 KiloPascal (kPa). One hundred feet of head is equivalent to 3.02 kilograms per square centimeter. Also see "Feet of head".

(157) "Tourist home" means a privately owned house or condominium that is not occupied by an owner or manager and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

(158) "Turbidity" means a cloudy condition of the water due to the presence of extremely fine particulate materials in suspension which interfere with the passage of light. "Turbidity" also means the cloudy appearance of water caused by the presence of suspended and colloidal matter. A turbidity measurement is used to indicate the clarity of the water. Turbidity is measured in NTUs.

(159) "Turnover" or "turnover rate" means the period of time, usually expressed in hours, required to circulate a volume of water equal to the capacity of the pool, spa, or other water feature.

(160) "Vanishing edge or negative edge" means a water-feature detail in which water flows over the edge of at least one of the pool walls and is collected in a catch basin.

(161) "Velocity" means the speed at which a liquid flows between two specified points. Velocity is expressed in feet per second (FPS).

(162) "Virginia Graeme Baker Pool and Spa Safety Act" (VGBPSSA) means the Virginia Graeme Baker Pool and Spa Safety Act, 15 USC 8001-8005 (2007).

(163) "Vortex pool" means a circular pool equipped with a method of transporting water in the pool for the purpose of propelling riders at speeds dictated by the velocity of the moving stream.

(164) "Wading pool" means a pool in which the water depth does not exceed two feet.

(165) "Wall" means any interior pool wall surface with a slope of no more than 11° from vertical.

(166) "Waste water" is water that is backwashed from the filter and sent to the sanitary sewer or other approved disposal method.

(167) "Waste water disposal system" means a plumbing system used to dispose of backwash or other water from a pool, spa, or other water feature or from dressing rooms and other facilities associated with a public bathing place.

(168) "Water feature" means an artificially created recreational structure or area using moving water. These features may include but are not limited to splash decks, water slides, lazy rivers, and wave pools.

(169) "Water line" means the middle point of the operating range of the skimmer system if the pool is so equipped; or where an overflow system is in use, the height of the overflow rim.

(170) "Water slide" means a slide adjacent to or in a pool with a water flow in it that originates above the surface of the pool water and ends with a drop into the pool. It consists of a trough-like slide or tubular structure that directs the path of travel and the rate of descent by the rider. Also see "Flume".

(171) "Wave pool" means a pool designed for the purpose of producing breaking wave action in the water that does not use sheet flow technology.

(172) "Zero depth pool" means a pool with a sloping entry starting above the water line at deck level and ending below the water line. There is no depth to the pool at the point a swimmer enters the water. It is also known as a "beach entry".

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.201](#) ADOPTION OF ANSI/NSPI STANDARDS**

(1) Unless otherwise specified in a rule, the following American National Standards Institute, American Society of Mechanical Engineers, National Sanitation Foundation International, American Society of Testing Materials, and American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ANSI/NSPI) standards and codes are adopted by reference and apply to all new construction or remodeling or renovation of existing facilities:

(a) ANSI/NSPI-1 2003 American National Standard for Public Swimming Pools; approved March 10, 2003 and published by National Spa and Pool Institute (now Association of Pool & Spa Professionals), 2111 Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(b) ANSI/NSPI-2 1999 American National Standard for Public Spas; approved February 4, 1999 and published by Association of Pool & Spa Professionals, 2111 Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(c) ANSI/APSP-7 2006 American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Catch Basins; approved September 11, 2006, and published by Association of Pool & Spa Professionals, 2111



Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(d) ANSI/APSP-9 2005 American National Standard for Aquatic Recreational Facilities; approved October 7, 2004, and published by International Aquatic Foundation, P.O. Box 4038, Alexandria VA 22303;

(e) ASME A112.19.8-2007 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs; issued March 30, 2007 and published by The American Society of Mechanical Engineers, 3 Park Avenue, New York, NY 10016-5990, (800)843-2763;

(f) NSF/ANSI Standard 50-2008 Pool, Spa & Recreational Water Products; approved February 2008, published by American National Standards Institute, 1819 L Street, NW, Washington, DC 20036;

(g) ASHRAE 62.1-2007 Ventilation for Acceptable Indoor Air Quality; published by American Society of Heating, Refrigerating, and Air-Conditioning Engineers, 1791 Tullie Circle NE, Atlanta, GA 30329; and

(h) ASTM F 2376-06 Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems; American Society for Testing Materials International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.301](#) CRITICAL HEALTH AND SAFETY VIOLATIONS THAT REQUIRE IMMEDIATE CLOSURE

(1) The following items are critical health and safety violations that require a pool owner or operator to immediately close a pool, spa, or other water feature and related facilities until the safety violations have been resolved:

(a) no filtration is available, whether because the pump has broken or for some other reason;

(b) no sanitizer is available or the sanitizer feeder is not operational;

(c) sanitizer falls outside the parameters set in ARM [37.115.1308](#), Table 6;

(d) a main drain cover is missing, loose, or unsecured or there is any other entrapment hazard present;

(e) there is a violation of the chlorine gas storage and handling standards set in ARM [37.115.1201](#);

(f) pool clarity falls outside the parameters set in ARM [37.115.1308](#), Table 6, or is insufficient to allow an observer to see the main drain from anywhere in or around the pool;

(g) a fecal accident or vomit accident has occurred;

(h) there are not lifeguards or attendants on duty in required numbers where lifeguards or attendants are required;

(i) there is no person currently certified in CPR present at the facility where required;

(j) there is not a "no lifeguard on duty" sign posted in a situation where a lifeguard is not required;

(k) the temperature of the water in a pool, spa, or other water feature exceeds 104°F; except that natural flow through hot springs pools may be 106°F;

(l) lighting in the vicinity of the swimming pool, spa, or other water feature is inadequate to allow an observer to see the main drain from anywhere in or around the pool;

(m) there is a missing vacuum filtering cover;

(n) at an outdoor pool, when thunder is heard or lightning has been sighted, the pool shall close and remain closed until 30 minutes after the last thunder clap is heard, or the last flash of lightning is observed, whichever is greater;

(o) a drowning or other serious accident has occurred and emergency responders or investigators are still present to render aid to the victim or to gather evidence;

(p) pH of the water is less than 7.0 or higher than 7.8, except flow through hot springs which may have a pH up to 9.4; and

(q) the pool, spa, or other water feature does not comply with the requirements of the VGBPSSA based on a visual inspection.

(2) The pool owner or operator is required to self close the swimming pool, spa, or other water feature until any of the above safety violations have been corrected.

(3) The pool owner or operator shall prepare and maintain a record of each instance in which the pool is self-closed to correct a safety violation under this rule. The record shall be signed by the person responsible for correcting the safety violation and it shall document:

(a) the nature of the safety violation;

(b) the date and time the violation occurred;

(c) the date and time the pool was closed;

(d) the measures taken to correct the safety violation; and

(e) the date and time the pool reopened.

(4) If any drowning or other serious accident or injury has occurred, the report shall be submitted to the department within 48 hours of the incident by faxing it to the Food and Consumer Safety Division, Department of Public Health and Human Services, (406) 444-5055.

(5) Failure or refusal of an operator to close a pool, spa, or other water feature when one of the health or safety violations in (1)(a) through (o) has occurred presents an imperative risk to public health and safety that supports emergency closure of the facility and emergency suspension of the facility licenses.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.302 VIOLATIONS THAT MAY REQUIRE IMMEDIATE POOL CLOSURE**

(1) The department may order a swimming pool, spa, or other water feature immediately closed where there have been repeated or ongoing or a combination of the following health and safety violations:

(a) alkalinity of the water falls outside the parameters of 80-220 ppm;

(b) except during lap swimming or competitive swimming, no guard line is in place at the break between the shallow and deep ends of the swimming pool, spa, or other water feature;

(c) the following required safety equipment is not available:

(i) lifepole or shepherd's crook must be available at poolside;

(ii) a ring buoy or rescue tube must be available at poolside; and/or

(iii) a backboard with head restraints must be readily available.

(d) if, during an inspection, the department requests the facility to contact its certified pool operator by telephone and the certified pool operator does not respond within 30 minutes.

(2) The department may order immediate closure of any swimming pool, spa, or other water feature that is operating without a valid license.

(3) The department may close any pool, spa, or other water feature for any of the violations listed in ARM [37.115.301](#) or [37.115.1309](#).

(4) Once the facility operator has submitted and satisfactorily completed a corrective action plan under ARM [37.115.2103](#), the department will approve reopening any pool, spa, or other water feature.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.303 REQUIRED INSTALLATION OF ULTRAVIOLET OR OZONE SECONDARY DISINFECTION SYSTEM**

(1) In instances in which a pool, spa, or other water feature has more than two users contract waterborne disease such as cryptosporidium or giardia within a period of 30 days the department may require licensee of a pool, spa, or other water feature to develop a corrective action plan and submit to the department for approval.

(2) If the corrective action fails to bring the disease outbreak under control, the department will require that the facility install and utilize a secondary disinfection system approved by the department, such as ultraviolet or other proven systems to control disease.

(3) Any licensee operating a splash deck or related water feature is required to install a secondary ultraviolet disinfection system approved by NSF and installed according to the manufacturer's directions into the main water line of the filtration system.

(4) The department may require a supplemental UV or ozone disinfection system on a pool, spa, or other water feature in a plan of corrective action when health and safety is threatened as indicated by repeated and documented violations.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.305 PLAN REVIEW REQUIRED FOR POOLS, SPAS, AND OTHER WATER FEATURES**

(1) Complete plans and specifications for work or installation must be submitted to the Montana Department of Public Health and Human Services for review and approval before any construction begins or before any change is made to the existing facility whenever the owner or operator of a public pool, spa, or other water feature intends to:

(a) construct, reconstruct, alter, convert, or repair any aspect of the swimming pool, spa, other water feature, or any related facility and the work will be more extensive than what occurs in routine maintenance; or

(b) install equipment or replace existing equipment with components that are not identical or substantially similar or are new to the design at the location of the pool, spa, or other water features.

(2) All plans and specifications for new facilities and all plans and specifications pertaining to any planned changes or additions to existing facilities shall be submitted as attachments to a plan review checklist form. The forms are available from the department by contacting the Department of Public Health and Human Services, Public Health and Safety Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box Helena 202951, MT 59620-2951 or at [www.fcss.mt.gov](http://www.fcss.mt.gov).

(3) The plan review checklist form, plans and specifications, and the applicable plan review fee, shall be submitted to the Department of Public Health and Human Services, Public Health and Safety Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951, or to the local health department agency at least:

(a) 90 days prior to the anticipated date that the construction or reconstruction, alteration, or conversion of an existing public swimming pool, spa, or other water feature, or related facility is set to begin; or

(b) 30 days prior to the anticipated installation date of new or replacement equipment which is new to the facility design and has not been previously approved.

(4) Whenever a piece of equipment is replaced with equipment that is identical or substantially similar, the licensee must notify the department, in writing, within 30 days.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 1197, Eff. 1/15/10.

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### **[37.115.306](#) QUALIFICATIONS REQUIRED FOR PERSONS PREPARING PLANS FOR REVIEW**

(1) Plans, specifications, and supporting data for design of a new pool, spa, or other water feature or for reconstruction or remodeling of a currently operating pool, spa, or other water feature must be prepared by a professional engineer who is registered in Montana. The licensed professional engineer shall include his seal and signature on any plans and specifications submitted to the department. Stamps or seals may be provided electronically.

(2) Plan specifications and supporting data for any facilities related to operation of a pool, spa, or other water feature, such as restrooms or bathhouses, may be submitted by a licensed architect or by a registered construction contractor as long as the design meets all applicable building codes and as long as all applicable permits have been obtained.

(3) Any plans for any slide structure must be reviewed and approved by a structural engineer licensed in the state of Montana and the plan for the slide must include his or her seal.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.307](#) SCOPE OF REVIEW BY THE DEPARTMENT**

(1) The department shall review all plans, specifications, and supporting data only to determine if they are in compliance with these rules.

(2) The department's review of the plans will not include:

(a) a review of the structural design or structural stability of any section or part of the facility;

(b) any determination of whether the plan is in compliance with building, electric, plumbing, mechanical, or ventilation codes; or

(c) any determination of whether the swimming pool, spa, or associated water feature complies with the Americans with Disabilities Act.

(3) In any instance in which there is a conflict between the requirements set in these rules or requirements set by another agency that has jurisdiction over some aspect of the design, construction, or operation of a pool, spa, or other water feature, or related facility, the more stringent requirement must be met.

(4) If the department determines it is necessary to have an engineering review conducted on facets of the design including, but not limited to, such things as the total dynamic head (TDH), pipe flow velocities, air exchange, or other complex calculations, it may contract with an engineering firm to conduct that portion of the plan review. Costs for such an engineering review will be charged to the applicant or licensee and must be paid to the department before the license is issued.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.308](#) SUBMITTING PLANS FOR REVIEW**

(1) Plans and specifications shall be submitted to the department in duplicate with a completed plan review checklist. All plans and specifications shall be drawn to a standard scale and with sufficient detail to permit a comprehensive review of whether the plan complies with all applicable standards.

(2) All specifications for any plans submitted for review must comply with the standards set by these rules. An inadvertent failure of the department to reject a specification that does not meet the requirements of these rules does not excuse the licensee or license applicant from its duty to meet the standards set here.

(3) The plan submittal package for the construction of a public swimming pool, spa, or other water feature or related facility, or for the reconstruction, alteration, or conversion of an existing public swimming pool, spa, or other water feature or related facility, shall include, but not be limited to:

(a) a plan view and a sectional view of both the pool, spa, or other water feature or related facility, and surrounding area;

(b) one or more drawings showing cross-sections through the main drain;

(c) a drawing of the overall plan showing the pool, spa, or other water feature in relation to other facilities in the area, including any equipment room;

(d) a detailed view of the equipment layout in the equipment room;

(e) a piping schematic that shows the piping configuration, pipe size, valves, inlets, main drains, over flow outlets, skimmers, make-up water, backwash from the filter, and treatment facilities;

(f) scaled drawings of the pool bottom and sidewalls;

(g) cross section drawings with measurements of the step risers and treads and of any handrails;

(h) all manufacturer specifications for all required components of the pool, spa, or other water features including, but not limited to, treatment equipment, pumps, disinfectant feeders, chemical feeder filters, and strainers;

(i) specifications for the materials that will be used to construct the pool or spa and for the materials used as finishes on any of the walkways;

(j) specifications for the slope and drainage of pool bottoms, decks, and other surface requiring drainage;

- (k) plans and drawings related to all bathhouse or other sanitary facilities;
- (l) an estimation of the anticipated bather load of the pool or spa;
- (m) calculations of the surface area and volume of the pool, spa, or other water features, calculations of the turn-over rate, flow rate, water velocities, total dynamic head, and pump curve showing design flow for each swimming pool, spa, or other water feature;
- (n) all specification sheet(s) pertaining to suction outlet cover/grates that will be used and documentation that they comply with ASME A112.19.8M-2007;
- (o) the name and location of any water source that will or may supply water to the swimming pool, spa, or other water feature;
- (p) details on the method that will be used to dispose of pool water and all other wastewater in compliance with applicable law;
- (q) details on barrier construction;
- (r) the plan review fee established in Table 1 of ARM [37.115.311](#); and
- (s) any other information specifically requested by the department.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

**[37.115.309](#) INCOMPLETE PLAN REVIEW APPLICATIONS**

- (1) The department shall provide timely review of any plan review application packet it receives to determine if it is complete and to determine whether more information is needed based upon the specific plans submitted.
- (2) If the department determines that all items required in ARM [37.115.308](#) for the review have not been submitted, it will notify the applicant in writing and will identify which items still need to be submitted. Review of the plans will not proceed until those items of information are submitted.
- (3) In some circumstances the department may need information in addition to what the applicant is asked for in the plan review packet to submit. In those cases, the department will require additional information as soon as practicable. Where the department has requested this additional information, review of the remainder of the plan review packet and supporting documents will continue to the extent possible while the department waits to receive the additional information.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

**[37.115.311](#) FEE TABLE**

Table 1.

| Type  | Design Volume           | Plan Review Fees | Pre-opening Inspections and Interim Visit Fees |
|---|-------------------------|------------------|--|
| Pool, Spa, Wading Pool, Spray Attraction, Lazy River, Others                              | Less than 4,000 gallons | \$200            | \$60   |
| Pool, Spa, Wading Pool, Spray Attraction, Lazy River, Others                              | 4,000 – 9,999 gallons   | \$400            | \$80   |
| Pool, Spa, Wading Pool, Spray Attraction, Lazy River, Others                              | 10,000 gallons or more  | \$600            | \$100  |
| Review Fees for a Substantial Modification to Existing Filtration or Disinfection systems |                         | \$75             |  |

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 1197, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff.

12/9/11.

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### **37.115.312 PAYMENT OF PLAN REVIEW FEES**

(1) The applicant shall submit any required fee identified in Table 1 in ARM [37.115.311](#) to the department at the time the plan review checklist and supporting documents are submitted. Pools not located on contiguous properties are considered separate projects for purposes of the fee schedule. Plan review will not begin until the fee is received.

(2) Fees for subsequent review, including interim review, final review, and engineering reviews shall be paid at or before those reviews occur or within 30 days of when an invoice for an engineering review is submitted to the license applicant or licensee.

(3) If the department requires site visits at identified phases of construction of water parks or complex projects to ensure that the construction is in compliance with the plans, any interim fee outlined in Table 1 must be paid at the time of each such additional site visits. The fee applies to each pool, spa, or other water feature.

(4) The fee for any pre-opening of a pool, spa, or other water feature is outlined in Table 1. A pre-opening fee applies to each pool, spa, or other water feature opening at the facility to ensure that construction is in compliance with the plan.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.313 OUTSIDE ENGINEERING REVIEW FEES**

(1) The department may incur reasonable engineering fees for an engineering consultation on aspects of the application for plan review that are beyond the in-house expertise of department personnel, including, but not limited to, such things as the total dynamic head (TDH), pipe flow velocities, air exchange, or other complex calculations.

(2) If the department contracts with an engineering firm to conduct an engineering review, the applicant will be notified in writing. The applicant will be required to reimburse the department for the engineering costs charged to the department by the engineering firm. This fee is in addition to any other applicable review fees set out in ARM [37.115.311](#), Table 1.

(3) The fee for any engineering review must be paid before the department or local regulatory authority may issue a license for the pool, spa, water slide, water recreational facility, or related facility.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.314 PAYMENT OF REVIEW FEES**

This rule has been repealed.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [REP](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.316 PLAN REVIEW APPROVAL AND EXTENSIONS**

(1) Plan review approval by the department is valid for two years and substantial and continuous construction must be initiated within 12 months of the date of approval.

(2) If substantial and continuous construction has not been initiated within 12 months from the date of the department's plan approval, the owner must obtain an extension in writing from the department. In no case shall an extension of the plan approval be granted for more than 18 months beyond the date of the original approval. The department is not required to approve a request for an extension of the plan approval.

(3) In any instance in which construction is not initiated within one year of plan approval or within the time granted for an extension, plans, specifications, and supporting documents, and appropriate fees must be resubmitted for another review.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.316 PLAN REVIEW APPROVAL AND EXTENSIONS**

(1) Plan review approval by the department is valid for two years and substantial and continuous construction must be initiated within 12 months of the date of approval.

(2) If substantial and continuous construction has not been initiated within 12 months from the date of the department's plan approval, the owner must obtain an extension in writing from the department. In no case shall an extension of the plan approval be granted for more than 18 months beyond the date of the original approval. The department is not required to approve a request for an extension of the plan approval.

(3) In any instance in which construction is not initiated within one year of plan approval or within the time granted for an

extension, plans, specifications, and supporting documents, and appropriate fees must be resubmitted for another review.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.317](#) PLAN REVIEW DURING CONSTRUCTION PHASE**

(1) Whenever plans and specifications must be submitted to the department for review, the department shall review the construction or renovation of any pool, spa, or other water features and related facilities to ensure that it is constructed in compliance with the applicable requirements of these rules.

(2) Depending upon the complexity of the project, the department may require interim site visit reviews to be conducted at phases of construction that the department identifies to the applicant during the initial plan review.

(3) A pre-opening or final licensing review must be performed for any swimming pool or any combination of water features before the final approval may be granted and a license issued.

(4) Any deficiencies identified during the final plan review must be satisfactorily addressed by the applicant before the department may issue a license to operate the pool.

(5) The department may conduct pre-opening or final plan review when it determines that its own expertise is necessary for an adequate technical inspection, or the department may request a local health department to conduct pre-opening or final plan review.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.319](#) CHANGES FROM ORIGINALLY APPROVED PLANS AND FINAL CERTIFICATION**

(1) The pool or spa and related facilities shall be built in accordance with the plans as approved unless a modification of the approved plans is approved in writing by the department prior to construction or installation of the modification.

(2) Within 30 days of the completion and licensing of any pool, spa, or other water feature or related facilities, the professional engineer overseeing the project must submit a final certification to the department. The certification shall be submitted in the form of an "as-built" letter that identifies any changes that were made from the originally approved plans and it shall include scaled drawings that incorporate any changes that were made. The scaled plans and the "as built" letter shall be submitted to the department in hard copy and electronic copy. The electronic copy must be submitted in a format acceptable to the department. Any change from the approved plans must still meet all requirements of these rules.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.321](#) INFORMATION AND TRAINING TO BE PROVIDED TO LICENSE APPLICANT**

(1) Upon completion of any construction or installation at a pool, spa, or other water feature, the license applicant or licensee of the facility must obtain written plans and operating instructions pertaining to all features or equipment constructed or installed at the pool, spa, or other water features, including the plans and instructions for any and all equipment, the circulation system, and maintenance required for the swimming pool or spa water.

History: [50-53-103](#), MCA; [IMP](#), [50-53-103](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.323](#) UNAPPROVED CONSTRUCTION OR INSTALLATION**

(1) Any construction, renovation, alteration, or installation of equipment that was not reviewed and approved by the department violates these rules.

(2) If construction on the pool shell, pool piping, or another component associated solely with the pool, spa, or other water features begins before the plan is submitted for review and approved, the construction must cease immediately until the plans, specifications, and applicable fees provided for in these rules are submitted, the review is completed, and the project is approved.

(3) If construction, renovation, alteration, or installation of equipment was completed before the department was notified by the owner or license applicant of the project, the pool, spa, or other water feature may not operate and no member of the public may be allowed to use the facility until the plans, specifications, and applicable fees provided for in these rules are submitted and the project is reviewed and approved.

(4) If construction, renovation, alteration, or installation of the pool structure, equipment, or other components, other than replacing an existing part with a part or component that is identical or substantially similar, was completed before obtaining the required approval from the department and it is determined upon review that one or more aspect of the construction, renovation, alteration, or installation of equipment does not comply with these rules, no license will be granted for operation of the facility until the owner or license applicant takes any and all steps necessary to bring the pool, spa, or other water feature into compliance with the rules. No member of the public may be allowed to use the pool, spa, or other water feature until the department has determined that it is in compliance with these rules and a license has been issued.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-103](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10.

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### **[37.115.502](#) LOCATION OF SWIMMING POOL, SPA, AND OTHER WATER FEATURES**

(1) Outdoor swimming pools, spas, and other water features must be located where they will not be exposed to excessive dust or other materials which would be detrimental to human health or hazardous to the operation or use of the pool or spa.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.503](#) MATERIALS**

(1) Pools, spas, and other water features shall be constructed of concrete, steel, or other approved materials which are inert, stable, nontoxic, watertight, and enduring.

(2) Nontempered glass is prohibited in close proximity to any pool, spa, or other water feature.

(3) No wooden spa units are permitted.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.504](#) SURFACES**

(1) The inside surface of the pool, spa, or other water feature shall be constructed of materials that:

(a) are nontoxic to humans and the environment;

(b) are impervious and enduring;

(c) will provide a smooth and easily cleaned surface without cracks or open joints (excluding structural joints); and

(d) are free of any slip, trip, or other injury hazard.

(2) The surfaces within the pool, spa, or other water feature intended to provide footing for users shall have a slip-resistant surface and shall not cause injury to feet during normal use. The slant of the floor surface shall facilitate cleaning and the movement of bottom deposits to main drains.

(3) The colors, patterns, or finishes of the pool, spa, or other water feature interior shall not obscure objects or surfaces within the pool. The walls and floor shall be white or light pastel in color. In pools that are used competitively, the walls and floor shall be white, except for race lane lines and required accent colors.

(4) Earth floors are not permitted for pools, spas, or other water features.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.505](#) SHAPE**

(1) The shape of any pool, spa, or other water feature must be such that the circulation of the water, for even distribution of disinfectant residual and supervision of swimmers is not impaired.

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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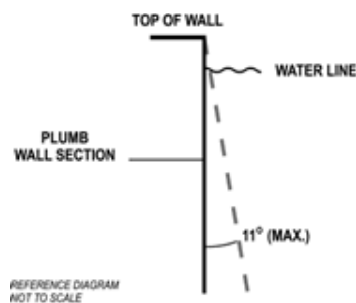
### [37.115.506](#) SLOPE

(1) Swimming pool floor slope shall not exceed one foot vertical drop for every 12 feet, as measured horizontally in the shallow areas, and one foot vertical to three feet horizontal, as measured in the deep area. These slopes shall be uniform except at the transition point from shallow to deep areas (five foot depth). All pool floors shall be sloped to the main drain.

(2) Swimming pool walls shall be vertical for a water depth of at least two feet, nine inches with a slope no greater than 11° from vertical, as shown in Figure 1.

(3) The maximum allowable wall slope for all pools except Class A pool walls where racing lanes end is 11°. Any wall section must be vertical for at least 2'9" and then it may have a radius of slope to meet the pool floor.

Figure 1.



History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.507](#) LEDGES AND BENCHES

(1) Rest ledges provided on pool vertical walls shall be at least 48 inches below the water surface and shall have a slip-resistant surface. The ledge shall slope one half inch in four inches toward the pool. Ledges shall have a minimum width of four inches and a maximum width of eight inches.

(2) Underwater seats or benches, when provided, shall conform to the following:

(a) the horizontal surface shall be 20 inches maximum below the waterline;

(b) underwater seats and benches shall not be used as the required pool entry/exit access;

(c) underwater seats and benches are allowed in conjunction with pool stairs;

(d) the leading edge of an underwater bench or seat shall be visually set apart from the surrounding pool surfaces by either a contrasting color or other visual image; and

(e) the seats and benches shall have slip-resistant surfaces.

(3) In any nonspa pool with a bench along the side of any wall, markings on the deck must be provided to indicate that there is a bench below the water surface by marking the deck in lettering that is at least four inches tall and in a contrasting color, stating "Caution: Bench".

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.508](#) DRAINS AND SUCTION OUTLETS

(1) The main drain outlets of the pool shall be plainly visible and located at the deepest portion of the pool.

(2) The suction outlet(s) including covers, fittings, and hardware shall be designed and installed in accordance with the



manufacturer's specifications to provide protection from body and hair entrapment.

(3) All main drains and suction outlets of any pool, spa, or other water feature must meet the requirement of the Virginia Graeme Baker Pool and Spa Safety Act, 15 USC 8001-8005 (2007), or the pool, spa, or other water feature may not be operated.

(4) Existing covers that do not have a VGBPSSA stamp on it, such as site-made covers, must provide a letter by licensed structural/mechanical engineer stating that the cover meets VGBPSSA.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.509](#) DEPTH MARKERS**

(1) The water depth shall be plainly marked in units of feet and inches at or above the water surface on the vertical pool wall and on the flat edge of the deck or walk next to the pool.

(2) The water depth shall be marked at maximum and minimum points and at the points of break between the deep and the shallow areas. The markings shall be spaced at no more than 25 foot intervals measured peripherally.

(3) Depth markers shall be in numbers of at least four inches in height and in a color contrasting with the background.

(4) Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used to plainly mark depth levels in a manner to make them plainly visible to persons in the pool.

(5) The depth in diving areas shall be marked.

(6) Lap pools shall have depth markers spaced at not more than 25 foot intervals and at each end of the pool.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.510](#) WATER DEPTHS IN SHALLOW END OF POOL**

(1) Minimum depth for a swimming pool shall be three feet except in specialized pools or pool entries approved by the department, which include, but are not limited to, the following types of pools or pool entries:

- (a) wading pools;
- (b) zero entry pools; and
- (c) therapy pools.

(2) Maximum water depth at the shallow end of a swimming pool shall not exceed three feet six inches, except in special purpose swimming pools, special instructional pools or restricted or recessed areas of a pool that are separated from the shallow portion of the pool by safety lines attached to the sides of the pool and supported by buoys.

(3) Such specialized pools must be approved by the department. Such pools include but are not limited to:

- (a) lap pools not exceeding four feet in depth at the shallow end;
- (b) therapy pools; or
- (c) instructional pools for scuba diving or for other specialized training.

(4) Use of specialized pools with shallow ends deeper than three feet, six inches, must be restricted to swimmers who have demonstrated their competency to swim in the deep end of a pool.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.511](#) VENTILATION**

(1) All bathhouses, dressing rooms, shower rooms, toilet rooms, and indoor pools, spas, and other water features must provide air turnover that is adequate to prevent the buildup of odors, excessive condensation, and chloramines.

(2) Ventilation in pools built after March 1, 2010 must meet ventilation requirements of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) or the building code in force for that location for air turnover.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.513](#) LIGHTING**

(1) All pools, spas, or other water features and their deck areas that operate at night or that have insufficient natural light to meet the clarity requirements in ARM [37.115.1315](#) must install and use safe artificial light that is adequate to meet those clarity requirements at all times during operation of the pool, spa, or other water feature. Such lights shall be spaced to provide illumination so that all portions of the pool, spa, or other water feature, including the bottom and drains, may be readily seen without glare.

(2) If lighting is not provided as required by this section, the facility operator shall not permit any use of the facility at any time there is insufficient light to clearly view the main drain of the pool from any location on the perimeter or deck surrounding the pool.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.515](#) MAXIMUM FACILITY BATHER LOAD**

- (1) All spas shall have a minimum of ten square feet per person.
- (2) All other pools and other water features shall meet the minimum square footage for bather load as described in Table 2:

Table 2. Maximum bather load, pools, and other water features.

| Pool/Deck area  | Shallow instructional or wading areas | Deep area (not including the diving area) | Diving area (per each diving board) |
|---|---------------------------------------|---|-------------------------------------|
| Pools with minimum deck area required elsewhere in this chapter | 15 sq. ft. per user                   | 20 sq. ft. per user                       | 300 sq. ft.                         |
| Pools with deck area at least equal to water surface area       | 12 sq. ft. per user                   | 15 sq. ft. per user                       | 300 sq. ft.                         |
| Pools with deck area at least twice the water surface area      | 8 sq. ft. per user                    | 10 sq. ft. per user                       | 300 sq. ft.                         |

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.517](#) DECK AREAS**

- (1) All swimming pools constructed after March 1, 2010, operated by a municipality shall have a deck surrounding it that is a minimum width of six feet of unobstructed deck area as measured from the pool edge or coping.
- (2) Any privately owned public pool constructed after March 1, 2010, shall have a deck surrounding 100 percent of the pool perimeter that is a minimum width of four feet measured from the pool edge or coping.
- (3) All spa decks shall be a minimum of four feet wide and shall extend around at least 50 percent of the unit perimeter.
- (4) For pools and other water features built or renovated after adoption of this rule, a minimum of four-foot deck width shall be provided on the sides and behind any pool equipment such as slide ladders, diving boards, or other equipment that allows ingress into the pool.
- (5) Deck areas are not required in vanishing edge pools at the overflow area. No pool or other water feature may have a vanishing edge that is more than 25 percent of the pool perimeter.
- (6) Any waterfall or other feature that may obstruct a deck shall be reviewed, on a case-by-case basis, to determine whether the deck still meets minimum requirements.
- (7) If coping is not of same material and elevation as the deck, the deck shall be measured to the outer edge of the coping.
- (8) No deck equipment or furniture may occupy the deck area. Additional decking area must be provided for lounging use, seating, or storage of pool equipment.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.518](#) DECK SURFACES**

- (1) All deck surfaces must be impervious, slip resistant, clear of tripping or other injury hazard, easily cleanable, and must entirely surround any swimming pool or other water feature. Spa decks must extend around at least 50 percent of the spa perimeter.
- (2) The use of wood deck material around a swimming pool or spa is prohibited.

- (3) The use of deck carpet is not permitted within six feet of the pool, spa, or other water feature.
- (4) If deck carpet is used six feet or more away from the pool, spa, or other water feature, it must be clean, dry, and maintained in good repair and the deck must slope away from the carpet.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.519 DECK DRAINS**

(1) The entire deck area shall have a slope of not less than one quarter inch per foot and not more than one half inch per foot directed away from the swimming pool, spa, or other water feature edge. Decks shall be sloped to effectively drain either to perimeter areas or to deck drains. The drainage shall be designed to remove splash water, deck cleaning water, and rain water to the waste water disposal system without leaving standing water.

(2) Deck drains shall be provided on all indoor pools and spas and shall be located so that no deck drain services more than 400 square feet of the deck.

(3) Outdoor pools shall utilize either deck or perimeter drain systems.

(4) The deck area drains shall not be connected to the recirculating piping system.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.521 HOSE CONNECTIONS**

(1) Hose connections or plumbing equipped with backflow prevention shall be installed that enable all parts of any pool or spa area to be reached with a hose for effective cleaning. The installed backflow prevention must be adequate to withstand the water pressure needed for the length of hose in use and to prevent back siphonage into the potable water supply system.

(2) Hose shall be properly stored when not in use to prevent a potential tripping hazard.

(3) Deck wash material and debris shall not be washed into the pool, spa, or other water feature and must be properly drained to prevent standing water.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.522 WATER SUPPLY**

(1) An adequate and potable supply of water must be provided. Water may be used from an approved public water supply system or from a source that meets the requirements of (2).

(2) Before a license may be issued, an establishment using an individual, shared, or multiple user water supply must submit to the department or its designee coliform bacteria and nitrate test results that meet the requirements of ARM [17.38.207](#).

(a) A supplier of an individual, shared, or multiple user water supply shall conduct a coliform bacteria test of the system at least twice a year with one sample collected between April 1 through June 30 and the second sample collected between August 1 through October 31, and;

(b) conduct a nitrate test of the system at least once every three years. Water tests must be analyzed at a certified laboratory. A supplier shall keep sampling result records for at least three years.

(3) Nonpotable water sources must be marked "not for human consumption".

(4) Plumbing must be installed and maintained in a manner to prevent cross connections between the potable water supply and any nonpotable or questionable water supply or any source of pollution through which the potable water supply might become contaminated. The potable water system must be installed to preclude the possibility of backflow. A hose may not be attached to a faucet unless a backflow prevention device is installed.

(5) A water supply system is determined to have failed and to require treatment, replacement, repair, or disinfection, when:

(a) it exceeds the maximum contamination levels allowed in ARM Title 17, chapter 38, subchapter 2.

(6) Extension, alteration, repair, or replacement of a water supply system or development of a new water supply system must comply with all applicable state and local laws.

(7) Bottled and packaged potable water may only be obtained from a licensed and approved source and shall be handled and stored in a manner that protects it from contamination.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.523 SEWAGE SYSTEM AND SOLID WASTE**

(1) An adequate and safe wastewater system must be provided for conveying, treating, and disposing of all sewage. Immediate measures must be taken to alleviate health and sanitation hazards caused by wastewater at any facility operating a pool, spa, or other water feature.

(2) All sewage, including liquid waste, must be disposed of by a public sewage system approved by the Montana Department of Environmental Quality or by a sewage treatment and disposal system constructed and operated in accordance to applicable state and local laws. Nonwater-carried sewage disposal facilities are prohibited.

(3) A wastewater system has failed and requires replacement or repair if any of the following conditions occur:

(a) the system fails to accept, treat, or dispose of wastewater as designed;

(b) effluent from the wastewater system contaminates a potable water supply or state waters; or

(c) the wastewater system is subjected to mechanical failure, including electrical outage, or collapse or breakage of a septic tank, lead line, or drainfield line.

(4) Extension, alteration, replacement, or repair of any wastewater system must be done in accordance with all applicable state and local laws.

(5) Mop water or soiled cleaning water may not be disposed of in any sink other than a mop or utility sink or a toilet.

(6) Solid waste must be collected, stored, and disposed of in a manner that does not create a sanitary nuisance and meets the requirements of ARM [37.112.137](#) for disposal of infectious waste. Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.601 BARRIERS: GENERAL REQUIREMENTS**

(1) Barriers shall be provided to prevent unauthorized persons from gaining access to public pools, spas, and other water features and related facilities.

(2) A barrier of durable material shall be provided outside the minimum required deck area of all outdoor public pools, spas, and other water features.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.602 BARRIERS FOR OUTDOOR POOLS AND WATER FEATURES**

(1) For aquatic facilities built after March 1, 2010, barriers for outdoor pools, spas, or other water features, including all splash decks shall be:

(a) at least 60 inches in height; and

(b) constructed so that all gates or doors in the barrier open out from the pool and are equipped with self-closing doors or gates with self-latching closure mechanisms and locking mechanisms at a height of at least 54 inches above the ground or three inches below the top of the gate on the side facing the pool.

(2) All entries must be equipped so that they can be locked at all times when supervision is not provided at the swimming pool, spa, or other water feature to prevent unauthorized swimmers from using the pool, spa, or other water feature.

(3) Lifeguarded pools are not required to have a self-closing, self-latching gate during the period a pool is in use; however, facility gates must be closed and locked during nonuse periods.

(4) One barrier may surround multiple pools, spas, or water features at one outdoor facility, except that a barrier four feet in height must be provided to separate a wading pool or splash deck from other pools.

(5) Other designs may be approved in writing by the department.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.603 BARRIERS FOR SPLASH DECKS**

This rule has been repealed.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10; **REP**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.604 BARRIERS FOR INDOOR POOLS**

(1) All entries to any indoor public pool, spa, or other water feature must be equipped so that they can be locked when the pool, spa, or other water feature is closed, to prevent unauthorized bathers from using the facilities.

(2) Pools or spas located in an atrium or common area with direct access by lodging or room doors or from other common areas must have a minimum four foot high, see-through barrier or fence with lockable gate which does not create a hazard.

(3) Pools or spas located in locker rooms or separated by an unsecured door during hours of use must either utilize a self-closing mechanism and latch on a door or put in place a barrier with a minimum height of four feet and a latch for the barrier on the pool side of the gate facing the pool, spa, or other water feature at least three inches from the top of the gate and may not have openings greater than one-half inch within 18 inches of the latch, or another design approved, in writing, by the department. Existing pools or spas must meet this requirement no later than December 31, 2013.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.605](#) DEADLINE FOR RETROFITTING BARRIERS IN EXISTING FACILITIES**

(1) Existing public pools, spas, and other water features must install barriers that meet the requirements of these rules on or before December 31, 2013, except existing splash decks.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW** 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.701](#) ENTRIES AND PLACEMENT OF STEPS AND LADDERS**

(1) Sloping entries used as a pool entrance shall not exceed a one-foot vertical in 12-foot horizontal ratio slope. Sloping entry surfaces shall be of slip-resistant materials.

(2) Steps or ladders shall be provided at the shallow end of the swimming pool if the vertical distance from the bottom of the pool to the deck or walk is over two feet.

(3) Recessed steps or ladders shall be provided at the deep portion of the swimming pool and if the pool is over 30 feet wide such steps or ladders shall be installed on each side of the deep end of the pool.

(4) All steps and ladders shall be located outside the minimum diving water envelope.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.702](#) LADDER SPECIFICATIONS**

(1) All portions of any ladder, including the steps, treads, and handholds, must be constructed of materials that are resistant to corrosion and the materials must be easily cleanable.

(2) Ladder steps must be sloped to drain.

(3) All ladder steps and treads shall have a slip-resistant surface.

(4) There shall be a uniform distance between ladder treads, with a seven inch minimum width. Except for the bottom riser, all ladder step risers at the centerline shall have a maximum uniform height of 12 inches.

(5) Ladder treads shall have a minimum horizontal uniform depth of two inches.

(6) All ladders shall be designed to provide two handholds and shall be securely attached to the side of the pool or spa. There shall be a clearance of three inches minimum and five inches maximum between the pool wall and the ladder.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.703](#) STAIR SPECIFICATIONS**

(1) All steps shall be easily cleanable, impervious, and corrosion resistant.

(2) All steps shall be sloped to drain.

(3) All stairs shall have slip-resistant treads.

(4) The leading edge of all stairs shall be distinguished by a color contrasting with the color of the steps and pool floor. The contrasting accent must be at least one inch wide and must extend across the entire width of the stair.

(5) Stair treads shall have a minimum unobstructed horizontal width of ten inches.

(6) There shall be a uniform distance between stair steps with a seven inch minimum distance. Except for the bottom stair step, all step risers at the center line shall have a maximum uniform height of 12 inches. The bottom riser height shall be allowed to vary

from the other risers as may be required to meet the floor, but shall not exceed 12 inches in height.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.705](#) RECESSED TREADS**

- (1) The design and construction of recessed treads in the pool wall shall conform to the following requirements:
  - (a) All recessed treads shall have slip-resistant surfaces;
  - (b) Recessed treads shall have a uniform vertical spacing of seven inches minimum to nine inches maximum;
  - (c) Recessed treads shall have a depth of five inches minimum and a width of 12 inches minimum;
  - (d) Recessed treads shall be provided with a handrail on each side of the treads; and
  - (e) Recessed treads shall drain into the pool.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.706](#) HANDHOLDS**

- (1) Every pool shall be provided with handholds around the entire perimeter of the pool.
- (2) Coping, perimeter overflow system, or decking along the immediate top edge of the pool must not be more than 12 inches above the waterline.
- (3) The handholds must have rounded, slip-resistant edges and must not exceed four inches in thickness.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.707](#) HANDRAILS**

- (1) Handrails are required wherever ladders, stairs, or recessed treads are provided.
- (2) Handrails must extend from within 18 inches from the bottom vertical face of the last step leading into the pool, spa, or other water feature over the coping to the edge of the deck.
- (3) Handrails shall be made of corrosion resistant materials and must be securely attached.
- (4) A ladder installed to assist a person exiting a pool must be installed no less than three inches away from the pool wall and no more than five inches away from the pool wall.
- (5) The water level of the pool must be maintained at a sufficiently high level during operation that a handrail installed to assist a person exiting a pool on a ladder extends to within 12 inches of the surface of the water when the pool is being used.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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- (3) Handrails shall be made of corrosion resistant materials and must be securely attached.
- (4) A ladder installed to assist a person exiting a pool must be installed no less than three inches away from the pool wall and no more than five inches away from the pool wall.
- (5) The water level of the pool must be maintained at a sufficiently high level during operation that a handrail installed to assist a person exiting a pool on a ladder extends to within 12 inches of the surface of the water when the pool is being used.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.801](#) DIVING BOARDS - GENERALLY**

- (1) Diving equipment shall be installed to conform with the manufacturer's specifications.
- (2) Existing diving boards may not be used until documentation has been provided to the department showing that they meet



| Board Length | Height Over Water   |                |                |               |               |                |                |               |                 |                |                |                |
|--------------|---------------------|----------------|----------------|---------------|---------------|----------------|----------------|---------------|-----------------|----------------|----------------|----------------|
| 10'          | 26"<br>2/3<br>meter | 2.13m<br>7'0"  | 2.59m<br>8'6"  | 1.68m<br>5'6" | .76m<br>2'6"  | 2.44m<br>8'0"  | 3.20m<br>10'6" | 2.13m<br>7'0" | 8.53m<br>28'0"  | 4.89m<br>16'0" | 5.49m<br>18'0" | 5.49m<br>18'0" |
| 12'          | 30"<br>1/4<br>meter | 2.29m<br>7'6"  | 2.74m          | 1.83m<br>6'0" | .91m<br>3'0"  | 2.74m<br>9'0"  | 3.65m<br>12'0" | 1.22m<br>4'0" | 8.53m<br>28'0"  | 5.49m<br>18'0" | 6.10m<br>20'0" | 6.10m<br>20'0" |
| 16'          | 1<br>meter          | 2.59m<br>8'6"  | 3.05m<br>10'0" | 2.13m<br>7'0" | 1.22m<br>4'0" | 3.05m<br>10'0" | 4.57m<br>15'0" | .61m<br>2'0"  | 9.45m<br>31'0"  | 6.10m<br>20'0" | 6.71m<br>22'0" | 6.71m<br>22'0" |
| 16'          | 3<br>meter          | 3.35m<br>11'0" | 3.65m<br>12'0" | 2.59m<br>8'6" | 1.23m<br>6'0" | 3.20m<br>10'6" | 6.40m<br>21'0" | 0             | 11.43m<br>37'6" | 6.70m<br>22'0" | 7.32m<br>24'0" | 7.32m<br>24'0" |

L2, L3, and L4 combined represent the minimum distance from the tip of board to pool wall, opposite diving equipment.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

### **[37.115.807](#) DIVING BOARD INSTALLATION**

(1) Diving boards must be installed so that they comply with the following requirements:

(a) There shall be an unobstructed clear vertical distance of 13 feet above any diving board measured from the center of the front end of the board. This area shall extend horizontally at least eight feet behind, eight feet to each side; and 16 feet forward from the horizontal location to the tip of the diving equipment;

(b) a horizontal separation of ten feet shall be provided between adjacent diving boards, except that this may be reduced to eight feet for surface boards that are installed lower than one-half meter high;

(c) a low diving board shall not be located below a high diving board; and

(d) the board shall be installed so that its overhang of the pool wall complies with the manufacturer's recommendations.

(2) Handrails shall be provided at all steps and ladders leading to diving boards.

(3) Diving boards or platforms more than one meter high shall be protected with handrails.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

### **[37.115.902](#) DRESSING ROOMS, TOILETS, AND SHOWER AREAS**

(1) The requirements set forth in this subchapter apply to all existing and newly built public pools, spas, and other water features, including privately owned public facilities where nonmembers or nonlodging guests are allowed to use the facility.

(2) With the following three exceptions, existing pools, spas, or water features shall be equipped with dressing rooms that are located adjacent to the locker room or the showering areas:

(a) seasonal recirculation splash decks and other water features may locate showers in the public area of the pool facility, using tempered water which drain to approved sewer or septic;

(b) existing hotels, motels, and lodgings are not required to provide dressing rooms and bathrooms adjacent to the pool. New hotels and motels must provide at least one unisex bathroom with a toilet, a hand sink, a changing table, and a shower. The shower may be located in the public area of the pool facility. Newly built facilities must locate the required facilities either in the area of the pool, spa, or other water feature or provide access to such facilities through an adjacent door not exceeding 50 feet from the pool, spa, or other water feature; and

(c) flow-through splash decks are not required to have changing room or showers but must have an adequate amount of toilet facilities meeting ARM [37.115.1814](#).

(3) At a minimum, one dressing room for males and one dressing room for females shall be provided.

(4) The ceilings, walls, and floors of dressing rooms, toilet, and shower areas shall be constructed of smooth, impervious, easily cleanable material, not adversely affected by steam, water, or disinfectant.

(5) The floors shall be smooth, nonslip to bare feet, shall have no open cracks or joints, and shall have a minimum slope of 1/4



inch per foot toward the drains with no low spots which will allow water to stand.

(6) Deck carpet is not permitted within six feet of shower areas or in hallways in or leading to dressing rooms which will normally be traveled by individuals wearing shoes.

(7) Any pool with a bather load less than 250 shall provide two screened changing areas in each dressing room. Any pool with a bather load greater than 250 shall provide an additional screened changing area for each additional 200 bathers.

(8) Partitions for screened changing areas and toilets shall have a minimum clearance of six inches above the floor.

(9) Dressing rooms, toilet, and shower areas shall be lighted so that all areas are easily visible for cleaning and maintenance.

(10) Except for flow-through splash decks, separate shower facilities shall be provided in the dressing rooms, shower areas, or entry areas and shall be located so that bathers must pass from the shower area directly into the pool, spa, or other water feature area for pools, spas, or water features.

(11) All showers must be equipped with a mixing valve or cold and hot water plumbing no warmer than 120 degrees.

(12) Liquid, foam, or powdered soap shall be provided for each shower unit.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### [37.115.903](#) NUMBER OF FIXTURES REQUIRED

(1) In facilities built or extensively remodeled after March 1, 2010, showers, toilets, urinals, and hand washing facilities shall, at a minimum, meet the number required by Table 4.

Table 4. Fixture Ratio Required.

|                       | First 1500 Males    | First 1500 Females | Additional Males Over 1500 | Additional Females over 1500 |
|-----------------------|---------------------|--------------------|----------------------------|------------------------------|
| Toilets water closet) | 1:75 for first 1500 | 1:40               | 1:120                      | 1:60                         |
| Hand sinks            | 1:200               | 1:150              | 1:200                      | 1:150                        |
| Showers               | 1:50                | 1:50               | 1:50                       | 1:50                         |

(2) A facility may substitute urinals for up to 50 percent of the toilets in the men's room.

(3) All fixtures shall be properly protected as required by the appropriate plumbing code.

(4) All fixtures must be so designed that they may be readily cleaned, disinfected, and maintained.

(5) Hand washing facilities must provide liquid, foam, or powdered soap and either disposable towels with adjacent waste receptacles or hand blowers.

(6) One drinking fountain is required for every 1000 bathers.

(7) A service sink is required for each facility. It shall be located somewhere other than the dressing rooms.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.904](#) SHOWERS

This rule has been repealed.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [REP](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### [37.115.905](#) BABY CHANGING TABLES

(1) A pool, spa, or other water feature must have a baby changing table in a convenient, useable area.

(2) A hand sink must be within 25 feet of the baby changing table.

(3) The table must be constructed of cleanable, durable, and nonabsorbent material.

(4) The table must be kept clean at all times.

(5) A lined garbage can must be near the baby changing table.

(6) A facility that does not allow diaper-aged children is not required to provide a baby changing table.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1001 CIRCULATION SYSTEMS**

(1) A circulation system consists of pumps, piping, return inlets, suction outlets, filters, disinfection equipment, and other equipment that may be attached to the circulation system shall be provided for complete circulation and treatment of water for all public swimming pools, including spas and other water features.

(2) In this rule, the terms "circulation" and "recirculation" can be used interchangeably.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1002 TURNOVER RATES**

(1) Pools, spas, and other water features constructed or modified after March 1, 2010 must have a circulation system capable of producing a turnover rate for the entire volume of water within the time period specified in Table 5.

(2) Existing pools, spas, or other water features that have not lost their grandfather status under ARM [37.115.1905](#) must continue to meet the minimum turnover rates approved at the time of initial licensing.

(3) Table 5.

| Pool or Other Water Feature Type              | Required Minimum turnover Rate (Hours)  |
|---|---|
| Wave Pool                                     | 2   |
| Activity Pool -less than 24 inches in depth   | 1   |
| Activity Pool -24 inches or greater in depth  | 2   |
| Catch Pool (for slides and flumes)            | 1   |
| Lazy River                                    | 2   |
| Vortex Pool                                   | 1   |
| Interactive Play Attractions                  | 1   |
| Pools   | 6   |
| Wading Pool                                   | 1   |
| Flow through Hot Springs                      | 8   |
| Spa   | 30 minutes  |
| Hydrotherapy Pool                             | 1 hour or less if pool is less than 1,000 gallons or 2 hours or less if pool is 1,000 gallons or more |
| Spray pools, splash decks (no standing water) | 1   |

(4) The system shall be designed to meet the required turnover rate when operated in accordance with the manufacturer's recommended maximum pressure and flow with the filter in a clean media condition.

(5) When a pool, spa, or other water feature is designed with multiple sections, the most stringent turnover rate must be applied to the entire system, unless otherwise approved by the department.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1003 OPERATION OF CIRCULATION SYSTEM**

(1) The circulation system shall use at least 70 percent return water from the skimmers or gutters and the remainder from the main drain. The main drain percentage may be increased during nonoperational hours to assist in debris removal.

(2) The circulation system must be operated 24 hours a day. If the system is shut down for periodic maintenance and repair, no person, including any employee of the facility, may be allowed to use the swimming pool, spa, or other water feature.

(3) No more than two spa units may use one recirculation system and no spa may utilize the circulation or disinfection system of

a pool or other water feature. Wading pools and spas constructed after March 1, 2010 must have their own circulation system separate from any other pool or spa.

(4) A surface skimming system such as the overflow gutters or skimmers described in ARM [37.115.1008](#) and [37.115.1009](#) shall be provided for each pool, spa, or other water feature.

(5) The water velocity in the circulation system piping shall not exceed:

(a) ten feet per second for discharge piping, except for copper pipe where the velocity shall not exceed six feet per second;

(b) six feet per second for suction piping; or

(c) one and one half feet per second through suction grates.

(6) Circulation system inlets and outlets shall be installed in a location that will produce uniform circulation of water and which will maintain even distribution of disinfectant residual throughout the pool, spa, or other water feature. Inlets and outlets shall be designed and installed so that they do not constitute a hazard to the user.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### [37.115.1005](#) PUMPS

(1) Any pool, spa, or other water feature constructed or significantly modified after March 1, 2010 must use a centrifugal pump for water circulation. The pump shall be capable of providing the flow required for filtering the water against the total dynamic head developed by the complete recirculation system.

(2) The pump shall not be operated if any main drain grate plate or other suction cover or vacuum outlet cover is missing, broken, or loose. If such an event should occur, the pool, spa, or other water feature shall be shut down immediately and must remain closed until a proper repair or replacement has been accomplished.

(3) A cleanable strainer or screen shall be provided on all pressure filter systems upstream of all recirculation pumps to remove solids, debris, hair, lint, and other such matter. The strainer shall be constructed of noncorrosive material and shall be located so as to be easily accessible for regular cleaning. Strainers are not required in systems that use vacuum diatomaceous earth filters or vacuum sand filters.

(4) Pumps located below the waterline shall have valves installed on suction and discharge lines. The valves shall be located in a readily accessible place, to allow regular maintenance and to allow easy removal of the pumps. Pumps not located below the waterline shall be self-priming.

(5) All pumps shall comply with NSF/ANSI 50-2008.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.1006](#) INLETS

(1) Inlets shall be submerged, and located to:

(a) produce uniform circulation of water throughout the swimming pool with no dead spots; and

(b) carry pool bottom debris to the outlets.

(2) A pool, spa, or other water feature shall have a minimum of two return inlets. A third inlet is required for any pool, spa, or other water feature with 900 square feet or more of surface area. An additional return inlet is required for each additional 300 square feet of surface area or fraction thereof.

(3) Sufficient numbers of inlets shall be provided and properly spaced and located to allow complete and uniform recirculation of water and to maintain uniform sanitizer residual at all times.

(a) If wall inlets are used, the distance between adjacent inlets must not exceed 15 feet.

(b) If floor inlets are used, they shall be placed at no more than 15 foot intervals and the distance from these inlets to the wall shall not exceed 15 feet.

(4) All inlets shall discharge at the depth designed by the manufacturer.

(5) All inlets must be located at least five feet away from any skimmer and there must be an inlet within five feet of any pool corner.

(6) Floor inlets must:

(a) be flush with the floor;

(b) provide equal balanced flow through all inlets; and

(c) be adjustable with the use of a specialized tool to prevent bathers from adjusting the flow.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### [37.115.1007](#) OUTLETS

(1) A circulation system must include one or more outlets, or suction outlets to conduct water to a recirculation pump and to serve as a drain when needed.

(2) All pools, spas, and other water features must have main drain outlets at the deepest point to permit the water to be completely and easily removed unless the department has approved a complete shutoff of the main drain and allows alternative use of skimmers or 100 percent flow through as a way for the pool, spa, or other water feature to comply with the VGBPSSA.

(3) The grated areas of any outlet shall be of sufficient size to decrease the possibility of clogging or creating suction hazards dangerous to the safety of the bathers and must meet the VGBPSSA.

(4) A minimum of two hydraulically balanced suction outlets per pump suction line are required except as described in (6) and must meet the following criteria:

(a) the outlets shall be spaced not more than 20 feet apart, not less than three feet apart, and not more than 15 feet from side walls;

(b) when dual suction outlets are used, no piping or valve arrangement is permitted that will isolate one suction fitting as the sole source of fluid to the pump. However, once the water from multiple outlets flows into a single pipe that loads to a pump suction inlet, the single pipe may be valved off to shut off the flow to the pump;

(c) each suction outlet shall be capable of handling 100 percent of the flow without creating a suction hazard;

(d) each suction outlet, other than skimmers, that measures less than 18 inches by 23 inches or a diagonal of less than 29 inches shall be provided with a cover that has been tested by a nationally recognized testing laboratory and complies with the VGBPSSA; and

(e) the maximum openings of the main drain cover must not exceed one-half inch.

(5) A single outlet shall be permitted only where the outlet's dimensions are at least 18 inches by 23 inches or a diagonal of at least 29 inches or it otherwise meet the requirement of the VGBPSSA.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1008](#) OVERFLOW GUTTERS**

(1) Overflow gutters shall be provided on all pools having a surface area over 1600 square feet unless the license applicant can demonstrate that use of more skimmers than minimally required will provide sufficient recirculation to meet or exceed required turnover rates.

(2) Pools having a surface area less than 1600 square feet may use either overflow gutters or skimmers.

(3) Overflow gutters shall extend around the entire perimeter of the pool, except at steps or recessed ladders.

(4) The hydraulic capacity of the overflow gutter shall be designed to be capable of handling 100 percent of the recirculation flow.

(5) Where large or surge gutters are used they shall be designed to prevent entrance or entrapment of a bather's arms or legs.

(6) The overflow gutter edge or lip shall also be designed to serve as a handhold.

(7) The water level in the pool, spa, or other water feature shall be maintained at a level one-quarter inch above the overflow gutter or as designed by the manufacturer.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1009](#) SKIMMERS**

(1) Skimmers may be used in place of overflow gutters as a means of skimming and circulating the water. Skimmers are permitted if at least one skimming device is provided for each 500 square feet of water surface area or fraction thereof, with a minimum of two skimmers required, except that spas or pools with less than 500 square feet of water surface and with a turnover rate that exceeds the minimum requirements under ARM Title 37, chapter 115, subchapters 1 through 22 by at least 25 percent.

(2) Skimming devices shall be built into the wall and shall develop sufficient velocity on the water surface to induce floating oils and wastes into the skimmer from the water surface of the entire pool, spa, or other water feature.

(3) The circulation system shall be designed to handle a minimum of 100 percent of the water turnover rate through the skimmers.

(4) An easily removable and cleanable basket or screen through which all overflow water must pass shall be provided to trap large solids. The skimmer shall be constructed of sturdy corrosion-resistant materials.

(5) The water level for skimmers must be maintained at the manufacturer's recommended level, which is normally at least one half the vertical height of the skimmer weir.

(6) Each skimmer shall be equipped with an equalizer line or other device to prevent airlock on the suction line should the water of the pool drop below the skimmer weir level, or the water level at the bottom of the skimmer. Equalizer line openings at the pool wall shall be covered with a fitting to prevent entrapment in accordance with ASME A112.19.8-2007.

(7) Skimmer covers located on a walking surface shall be securely seated, slip resistant, of sufficient strength to withstand

normal deck use, and shall not constitute a tripping hazard.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1010 VACUUM EQUIPMENT**

- (1) Vacuum equipment shall be provided to remove sediment and other accumulations from the bottom of the swimming pool, spa, or other water feature.
- (2) When not in use, all vacuum fittings shall be covered with an automatic closure device that cannot be opened without a special tool. Where a skimmer is used for vacuuming, automatic closure is not required.
- (3) A missing vacuum filtering cover is an entrapment hazard which requires the pool operator to immediately close the pool, spa, or other water feature until the cover is replaced and reinstalled.
- (4) Any vacuum equipment shall be used in accordance with manufacturer's guidelines and with all parts in place.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1011 FILTRATION EQUIPMENT**

- (1) Filtration equipment shall be provided on all pools, spas, and other water features and shall be installed and maintained in accordance with the manufacturer's specifications. Filters shall be sized to accommodate or exceed the design flow rate of the system.
- (2) Filters shall be designed so that filtration surfaces may be easily inspected and serviced.
- (3) A flow rate indicator shall be provided and installed in a manner that shows the recirculation rate of the pool, spa, or other water features. The indicator shall measure the rate of flow through the filtering system with an appropriate range readable in gallons per minute and that is accurate within ten percent of actual flow.
- (4) Flow meters shall be installed in a straight section of the piping unless the manufacturer's guidelines require the flow meter to be installed in some other location. There shall be straight pipe upstream and downstream from the location of the flow meter. The upstream pipe section must be a minimum of ten pipe diameters in length. The downstream straight pipe section must be a minimum of four pipe diameters in length.
- (5) Filters shall comply with the requirements of ANSI/NSF 50-2008.
  - (a) The maximum flow rate for different types of filters may not exceed the requirements of ANSI/NSF 50-2008. The maximum application rate for sand filters shall not exceed 15 gallons per square foot of media, unless a higher rate is specifically approved by the manufacturer for commercial use.
  - (b) Filters shall be fitted with both influent and effluent gauges.
- (6) For cartridge type filters, a minimum of three filters must be provided for each pool, spa, or other water feature:
  - (a) one in use;
  - (b) one which has been cleaned and is ready for use; and
  - (c) one which is being cleaned.
- (7) For sand-type filters, whether of the gravity or pressure type, including high-rate filters, the filter system shall be provided with an influent pressure indicator and an effluent pressure indicator to show the condition of the filters. The filter system shall include an air relief device at or near the high point of the filter. A sight glass shall be provided on the back-wash discharge line.
- (8) For diatomaceous earth type filters, whether of the vacuum or pressure type:
  - (a) the filter shall be designed, constructed, and operated to preclude the introduction of appreciable quantities of filter-aid into the pool, spa, or other water feature during pre-coating operations; and
  - (b) the filters shall be designed and installed with adequate working space provided above and around the filter to allow the easy removal and replacement of any part and for proper maintenance.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1012 CROSS-CONNECTIONS AND FILL LINES**

- (1) No direct mechanical connection is allowed between the potable water supply and the pool, spa, or other water feature; chemical feeder equipment; or the pool, spa, or other water feature piping that would permit sewage or waste water to enter the recirculation system or that would permit water from the recirculation system, pool, spa, or other water feature to enter the make-up water supply.
- (2) Where water from an approved water source is added to the pool, spa, or other water feature, cross connections between

the public water system and water in the pool, spa, or other water feature shall be eliminated by pumping make-up water from a pump suction well or by admitting water by means of an air-gapped supply, preferably located under a low diving board.

(3) If an over-the-rim water supply spout is used it shall be located under a diving board, adjacent to a ladder, or shall otherwise be properly shielded in order to minimize tripping hazards. Additionally:

(a) the open end of the spout shall have no sharp edges and shall not protrude more than two inches beyond the edge of a pool; and

(b) the spout shall be separated from pool water by an air gap of at least six inches between the flood level of the pool and the lowest point of the spout.

(4) No direct connections to sewers shall be permitted. The drain system for any pool, spa, or other water feature may not be directly connected to a sewer in a manner that would permit back flow of the sewer into the pool, spa, or other water feature.

(5) Where a surge or balancing tank is used, the point of discharge from the make-up water line into the surge or balancing tank shall be at least six inches above the rim of the tank.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1015](#) PIPING SYSTEM**

(1) The piping system for any pool, spa, or other water feature shall be designed to reduce friction losses so that adequate flows are maintained in the piping system.

(2) The piping system of the pool, spa, or other water feature shall be marked to identify filtered water, make-up water, waste water, vacuum lines, and heating lines and shall be marked to identify the direction of flow.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1016](#) DISINFECTANT AND CHEMICAL FEEDERS**

(1) The pool, spa, or other water feature shall be equipped with a continuously operating disinfectant feeder. The water must be disinfected by a chemical which distributes an easily measured, free available chlorine or bromine residual. The water shall at all times contain sanitizer residuals as required in this rule.

(2) All proposed sanitizers must be approved by the department. Only Environmental Protection Agency (EPA) registered sanitizers approved by the department shall be used.

(3) All disinfectant equipment other than compressed chlorine gas feeders must be approved by the National Sanitation Foundation International.

(4) Sanitizer and pH shall be monitored and controlled automatically by suitable regulators. After March 1, 2010, all new pools, spas, and other water features and all existing pools, spas, and other water features that undergo major renovations shall install automatic chemical feed equipment to adjust chemical levels. Automatic controllers shall be standardized in accordance with the manufacturer's instructions.

(5) Chemical feeders must be capable of supplying not less than the equivalent of three pounds of chlorine for outdoor pools or one pound of chlorine for an indoor pool, per 10,000 gallons of pool, spa, or other water feature capacity during a 24-hour period.

(6) Skimmer baskets shall not be used as chemical feeders.

(7) A change in the method or type of disinfection used must be approved in writing by the department before it is implemented.

(8) The water must be continuously disinfected by a chemical which imparts an easily measured, free available residual effect. The water shall contain sanitizer residuals as required in these rules at all times. Only EPA-registered sanitizers approved by the department shall be used.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1017](#) HAND DOSING OF DISINFECTANT NOT PERMITTED**

(1) The hand dosing of disinfectant or the introduction of disinfectant at a pool, spa, or other water feature by means other than through a chemical feeder which has been NSF approved is not permitted except for superchlorination or for bringing the residual of the disinfectant up to required levels when the facility is closed.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1019](#) SALT GENERATORS**

(1) When salt generators are used for producing chlorine for pools, spas, or other water features, they must be capable of providing adequate chlorine for anticipated or actual heavy use periods. If salt generators can not consistently produce adequate chlorine, then a backup chlorine system must be installed and used.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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#### **[37.115.1020](#) EQUIPMENT ROOM**

(1) The equipment room shall be so located that it cannot be entered directly from the shower rooms. If the equipment room is accessed from a public area, the equipment room must be kept locked at all times when not attended.

(2) The equipment room shall have a floor drain.

(3) The floor shall have a minimum slope of one-quarter inch per foot toward the drains with no low spots which would allow the water to stand.

(4) The circulation equipment shall be located for convenient inspection and servicing. Adequate headroom shall be provided above pressure filters to allow easy observation and reading of gauges.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2011 MAR p. 2657, Eff. 12/9/11.

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#### **[37.115.1021](#) EQUIPMENT ROOM**

This rule has been repealed.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **REP,** 2011 MAR p. 2657, Eff. 12/9/11.

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#### **[37.115.1022](#) CHEMICAL STORAGE**

(1) Chemicals and testing equipment shall be stored in a manner that prevents spillage and intermixing, that may cause dangerous chemical reactions such as poisonous gas, fire, or explosion.

(2) Chemicals shall be stored with the covers in place and not in proximity of dripping, leaking, or standing water.

(3) Scoops may not be shared between containers with different chemicals.

(4) Chemicals shall be stored in a correctly labeled container.

(5) Placards identifying the oxidation reactivity must be located on the main door where the chemicals are kept.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2011 MAR p. 2657, Eff. 12/9/11.

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#### **[37.115.1101](#) OPERATOR QUALIFICATIONS**

(1) The licensee of the pool, spa, or other water feature shall ensure adequate numbers of personnel are trained and knowledgeable in water testing, operating the water treatment equipment, and that sufficient numbers of trained personnel are available whenever the facility is open for use.

(2) The licensee of any public pool, spa, or other water feature shall employ, or contract with a Certified Pool Operator (CPO), a certified Aquatic Facility Operator (AFO), or a person who has equivalent current certification approved by the department.

(3) The certified pool operator for the facility shall be at the facility whenever it is open or available to respond by phone or in person to the pool, spa, or other water feature within 30 minutes of being telephoned. Failure to respond in the prescribed time shall be treated as any other violation, and a documented history may require a corrective action plan be submitted to the department.

(4) Certified operators must complete any continuing education or training required by the entity that certified them.

(5) Current licensees of pools, spas, or other water features must meet the requirements of this rule no later than December 31, 2011.

(6) New pools, spas, or other water features must meet this requirement in order to operate.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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#### **[37.115.1103](#) RECORD KEEPING**

(1) The facility shall maintain accurate records concerning the daily operations of all swimming pools, spas, or other water features at the facility.

(2) Records shall be maintained on forms approved by the department.

(3) The facility shall maintain daily records on the following water tests:

(a) disinfectant residual;

(b) combined chlorine concentration;

(c) pH;

(d) water temperature (spas and hot spring pools only);

(e) maintenance information;

(f) bather loads; and

(g) clarity readings.

(4) The facility shall maintain records of weekly readings of the following:

(a) the cyanuric acid concentration;

(b) alkalinity;

(c) calcium concentration; and

(d) saturation index calculations.

(5) The facility shall maintain records on all of the following:

(a) serious injury accident reports;

(b) incident reports for incidents not requiring medical attention; and

(c) fecal and vomit accidents.

(6) The pool operator shall post the facility's license and all applicable operators' licenses. Copies of all other required certifications must be available whenever the pool, spa, or other water feature is open upon request of the department or any member of the public. This includes life guard certifications and first aid, AED, and CPR certifications.

(7) The pool, spa, or other water feature licensee, owner, or operator shall obtain and retain a copy of all Material Safety Data Sheets (MSDS) for each chemical used in the facility. The facility shall maintain records which document that each person that works with a specific chemical has read the relevant MSDS sheet.

(8) All records must be kept on file and in a readily accessible location for a minimum of 36 months for review by the department, except that accident and incident reports must be maintained at the facility for 60 months.

(9) The operator of the swimming pool, spa, or other water feature must furnish copies of any or all records to the department upon request.

(10) A copy of these rules must be maintained at the facility premises.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1201](#) CHLORINE GAS STORAGE AND OPERATIONS**

(1) Gas chlorine may be used as a disinfectant only when the main pool recirculation pump is running and circulating pool water and the chlorine supply to the recirculation system is delivered under a vacuum condition.

(2) When compressed chlorine gas is used, whether by an existing pool or spa or on a pool, spa, or other water feature constructed after March 1, 2010, the provisions of (3) through (6) must also be complied with.

(3) The chlorine and chlorinating equipment shall be in a separate, locked, well-ventilated room. Such rooms shall not be below ground level and shall provide positive air pressure with vents near the floor which terminate out-of-doors. The door of the room shall not be open to the swimming pool, but shall open to the outside.

(4) Chlorine cylinders, whether full or empty, shall be anchored to prevent them from falling over. A valve stem wrench shall be present on the chlorine cylinder so that the chlorine supply can be shut off quickly in case of an emergency. A valve protection hood shall be kept in place except when the cylinder is connected.

(5) The chlorine feeding device shall be designed so that in the event of accidents or during interruption of the water supply any leaking chlorine gas will be conducted to the outdoors.

(6) Chemicals must be stored in accordance with the manufacturer's instructions.

(7) Locker style chlorine storage may be used rather than a large room, when practical, following MT-DEQ Circular #1 provisions as well as the rules above.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1202](#) CHLORINE GAS SAFETY EQUIPMENT AND TRAINING**

(1) A gas mask designed for use in a chlorine atmosphere and of a type approved by the Mine Safety and Health Administration (MSHA) or the National Institute of Occupational Safety and Health (NIOSH) shall be provided at any pool, spa, or other water



feature that uses or stores chlorine gas. In addition, replacement canisters shall be provided and a record shall be kept of gas mask usage to ensure that the mask will be serviceable when needed. The gas mask shall be kept in a closed cabinet, accessible without a key, located outside of the room in which the chlorinator is maintained.

(2) Chlorination equipment shall be installed and operated by and under the supervision of personnel experienced with installation and operation of such equipment.

(3) All users of chlorine gas shall purchase at least one copy of each available safety pamphlet related to chlorine safety produced by the Chlorine Institute, Inc., 1300 Wilson Blvd, Arlington, VA 22209, (703)741-5760 including, but not limited to:

- (a) #1 Chlorine Manual;
- (b) #65 Personal Protective Equipment;
- (c) #82 Recommendations for using 100 pound and 150 pound cylinders; and
- (d) #97 Safety Guidelines for Swimming Pool Applications.

(4) All pool operators who use chlorine gas shall maintain records and documentation of the use, and of safety training pertaining to the use of chlorine gas. The training documentation must include records identifying when copies of safety pamphlets were given to each staff person working in or having access to the separate room in which compressed chlorine gas is stored and used. The documentation must also identify which specific safety pamphlets were provided.

(5) All operators using chlorine gas shall maintain records demonstrating that they have conducted drills with emergency responders and that the emergency responders are properly prepared for a chlorine gas emergency.

(6) Any improper use or storage of chlorine gas or inadequate training of facility staff or failure to provide training to emergency responders is cause for immediate closure of the pool, spa, or other water feature and constitutes a safety violation until it is corrected under ARM [37.115.1201](#).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### [37.115.1203](#) CARBON DIOXIDE USE AND STORAGE

(1) Where carbon dioxide is used at a pool, spa, or other water feature to adjust pH, the following requirements must be met:

- (a) carbon dioxide cannot be stored below grade level;
- (b) carbon dioxide must be stored in well ventilated rooms to prevent the accumulation of a high concentration of carbon dioxide that could reduce the oxygen level in the air to less than 19.5 percent;
- (c) carbon dioxide must be used according to the safety requirements in the material safety data sheets provided by the supplier for carbon dioxide, including providing and using all recommended safety equipment;
- (d) carbon dioxide tanks must be thoroughly secured to prevent any tipping or rolling cylinders;
- (e) only authorized personnel who have been trained with the material safety data sheets provided by the manufacturer may have access to the carbon dioxide storage rooms; and
- (f) only personnel trained in the handling of carbon dioxide shall be allowed to adjust or replace carbon dioxide tanks.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.1301](#) TEST KITS

(1) Water testing shall measure the following parameters using an FAS-DPD test kit which measures concentrations with precision through the process of titration:

- (a) free chlorine and/or bromine;
- (b) total chlorine;
- (c) pH (colorimetric test);
- (d) total alkalinity (at least 10 ppm titration calibration ability);
- (e) cyanuric acid (0-100 ppm turbidimetric test); and
- (f) calcium hardness (at least 10 ppm titration calibration ability).

(2) An approved Diethyl-p-phenylenediamine (DPD) titration method test kit must be used to test chlorine level in the water when chlorine is used as the water sanitizer.

(3) An approved DPD type kit shall be used to test bromine levels when bromine is used as the sanitizer.

(4) Test strips are not an approved method of accurate testing.

(5) If a DPD test kit is not available for reading the higher pH readings allowed for hot springs, the licensee may request that the department approve use of a test kit that meets an accuracy standard set by the manufacturer that falls within  $\pm 0.2$  pH. Testing equipment verified for accuracy by the manufacturer may be approved by the department.

(6) The department may approve an alternative testing method if the method can accurately measure the parameters listed in ARM [37.115.1301](#)(1).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR

### **37.115.1302 FREQUENCY OF WATER TESTING**

- (1) Water testing shall be conducted and recorded daily at the following times:
  - (a) before opening a public pool, spa, or other water feature;
  - (b) every four hours after opening; and
  - (c) at closing.
- (2) The test taken before opening must be a manual test. If the pool, spa, or other water feature has an Oxidation Reduction Potential (ORP) meter installed, that may be used for the other tests.
- (3) Adjustments shall be made to the water treatments as needed to maintain the water chemistry within established parameters or to return water chemistry to within established parameters.
- (4) The department may require more frequent water testing based on occupancy loads.
- (5) The following shall be tested and recorded every time the water is tested:
  - (a) free chlorine;
  - (b) total chlorine or bromine;
  - (c) combined chlorine shall be determined by subtracting the free chlorine from the total chlorine reading;
  - (d) pH; and
  - (e) water temperature (if over 95° F).
- (6) Total alkalinity and cyanuric acid shall be tested and recorded once every week.
- (7) Calcium hardness readings shall be taken and recorded at least weekly to determine water chemical balance.
- (8) Chemical balance, as determined by the saturation index, must be tested at a minimum of once per week. The department may require more frequent testing where indicated, based upon occupancy loads or test results of the pool, spa, or other water feature.
- (9) Operators who use isocyanurates or stabilized chlorine products must be able to perform the alkalinity adjustments required because of the low pH and high acid concentrations in the water.
- (10) Pool operators must properly dilute pool testing samples for chlorine, bromine, or cyanuric acid as needed if high levels of these are suspected, in order to be able to obtain accurate test results.
- (11) Multisectional pools may be required to test in additional locations and recorded on a regular basis per the department's request.

**History:** 50-53-103, MCA; IMP, 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA; NEW, 2010 MAR p. 80, Eff. 1/15/10; AMD, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1304 OXIDATION REDUCTION POTENTIAL (ORP) READING**

- (1) An operator of any pool, spa, or other water feature that has installed an ORP meter shall use the ORP as an indicator of disinfectant level.
- (2) An ORP meter must be properly maintained in compliance with the manufacturer's recommendations for the routine periodic maintenance of the ORP sensor.
- (3) ORP readouts may be used as an indicator of disinfectant level following the manual water testing prior to opening.
- (4) Daily record logs must include manual water testing results before opening and ORP reading every four hours after opening and at closing every day.
- (5) The water in the pool, spa, or other water feature shall be closed if the ORP is less than 650 mV as measured by the controller or by the ORP measuring equipment, regardless of the chlorine residual measurement and it shall remain closed until the ORP is at least 650 mV.

**History:** 50-53-103, MCA; IMP, 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA; NEW, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1305 BACTERIOLOGICAL QUALITY**

- (1) Pools, spas, and other water features shall be free from harmful levels of disease producing organisms, toxic chemicals, or adverse physical conditions.
- (2) The water in pools, spas, and other water features shall meet the following standards of bacteriological quality:
  - (a) heterotrophic plate counts may not exceed 200 bacteria per milliliter in two consecutive tests;
  - (b) total coliforms or E. coli may not exceed an average of one coliform per sample of 100 milliliters in two consecutive tests when using the membrane filter test; and
  - (c) total coliforms or E. coli may not exceed 2.2 bacteria per sample of 100 milliliters of water in two consecutive samples when using the most probable number (MPN) method.

(3) Upon request by the department, the pool operator of a pool, spa, or other water feature must collect water samples for bacteriological or other testing for public health investigations. The department may also require that test samples be taken and analyzed by an independent laboratory with the results transmitted to the department from the independent laboratory.

(4) Water samples must be:

(a) collected, dechlorinated, transported, and analyzed in compliance with the procedures outlined in the twentieth edition of Standard Methods for the Examination of Water and Wastewater (published jointly by the American Public Health Association, Water Environment Federation, and the American Water Works Association); and

(b) analyzed at a laboratory approved by the department.

(5) Not more than two consecutive samples in a one month period may exceed the levels set in these rules.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

### [37.115.1307](#) DISINFECTANT USE

(1) The physical and chemical conditions in the water of the pool, spa, or other water feature shall be maintained within the ranges specified in these rules. Chemicals added to the water shall not cause irritation to the eyes, skin, or mucous membranes of the bathers.

(2) All pools, spas, and other water features when open or in use must be continuously disinfected by a chemical that imparts a residual effect and must maintain an alkaline pH. Dispersal of the disinfectant agent must occur by mechanical means when bathers are present.

(3) In pools, spas, and other water features using chlorine as a disinfectant, breakpoint chlorination ("super chlorination" or "shocking") is required when the combined chlorine reading reaches 0.5 ppm or greater.

(4) To super chlorinate or shock a pool, spa, or other water feature that has a combined chlorine reading of 0.5 ppm or higher, the operator must, at one time, add free chlorine equivalent in an amount that will bring the free chlorine reading to a level at least ten times greater than the combined chlorine reading.

(5) Super chlorination or shocking cannot be undertaken while any bather is in the pool, spa, or other water feature. The pool, spa, or other water feature may not be reopened for any user until the level of chlorination falls within the parameters set in ARM [37.115.1017](#).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

### [37.115.1308](#) WATER CHEMISTRY PARAMETERS

(1) Water chemistry, temperature, and clarity measurements must fall within the parameters set forth in Table 6:

Table 6.

| Parameter   | Acceptable   | Ideal   |
|---|--|---|
| Chlorine  | 2-8ppm   | 3-5ppm  |
| Combined chlorine   | 0 to 0.5ppm  | 0.0   |
| Bromine   | 2-10ppm  | 2-8ppm  |
| Total Alkalinity  | 60-220ppm (varies by chemical type and pool surface) | 80-100ppm for Cal Hypo, lithium hypo, and sodium hypochlorite;<br>100-120ppm for Sodium dichlor, trichlor, chlorine gas and bromine compounds |
| Oxygen Reduction Potential (ORP or HRR, which stands for High Resolution Reduction) | 650 minimum millivolts (mV)                          | 650-750 minimum millivolts (mV)   |
| pH  | 7.2-7.8  | 7.4-7.6   |
| Cyanuric Acid (allowed only in outdoor pools)                                       | 0-100ppm   | 10-50ppm  |
| Calcium Hardness  | Pools 150-1,000ppm                                   | Pools 200-400ppm; Spas 150-250ppm   |

|             |  |       |
|-------------|--|-------|
| Temperature | <p>Pools may not exceed 100° F<br/>         Spas may not exceed 104°F<br/>         Flow through hot springs may not exceed 106°F</p> |       |
| Clarity     | <p>NTUs must be in the range of 0.0-1.0. See ARM <a href="#">37.115.1315(1)</a></p>  | 0 NTU |

(2) If total alkalinity is too low, it will result in pH bounce and a tendency to cause corrosion. If total alkalinity is too high, it will result in cloudy water increased scaling potential and a tendency for pH to be too high.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 1197, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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**[37.115.1309](#) CLOSURE OF POOL BASED ON WATER CHEMISTRY READINGS**

(1) A pool, spa, or other water feature shall be closed immediately whenever a reading falls into one or more of the following categories:

- (a) the chlorine or bromine reading is outside the minimum and maximum allowed parameters set in ARM [37.115.1308](#), Table 6;
- (b) water temperature exceeds the maximum set in ARM [37.115.1308](#), Table 6;
- (c) pool clarity fails to meet the parameters set in ARM [37.115.1308](#), Table 6; or
- (d) pH of the water is less than 7.0 or higher than 7.8 except flow through hot springs which can have a pH up to 9.4.

(2) When a pool, spa, or other water feature is closed based on water chemistry readings, the operator shall document the closure and the reason for the closure and shall maintain the documentation in its files with other required records.

(3) When the critical water quality parameters are brought within the acceptable range set out in ARM [37.115.1308](#), Table 6, the pool may be reopened with the approval of the department.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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**[37.115.1310](#) ALTERNATIVE DISINFECTANT METHODS**

(1) The department may approve alternative disinfection methods when the license holder or facility operator has demonstrated that the alternative method:

- (a) provides a readily measurable residual;
- (b) is equally effective in disinfecting water as the chlorine or bromine concentrations set in these rules;
- (c) has been shown to not be dangerous to public health; and
- (d) is approved for use as a disinfectant by the Environmental Protection Agency (EPA).

(2) Department approval must be obtained prior to using any other such disinfectant method.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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**[37.115.1311](#) CHEMICALS USED TO CONTROL ALGAE**

(1) No chemicals used in controlling algae growth shall pose a risk to public health or contribute toxic properties to the water.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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**[37.115.1313](#) SATURATION INDEX**

(1) The following equation and ARM [37.115.1314](#), Table 7 shall be used to calculate the saturation index: the saturation index equals pH plus temperature factor (TF) plus calcium factor (CF), plus alkalinity factor (AF) minus 12.1. (SI=(pH + TF + CF + AF) - 12.1.)

(2) If the total dissolved solids (TDS) are less than 1,000 ppm, 12.1 is used as the total dissolved solids factor. If the total dissolved solids are greater than 1,000 ppm, 12.2 is used as the total dissolved solids factor.

(3) Saturation index values shall be calculated weekly. Perfectly balanced water has a saturation index value of 0.0. A saturation index value below -0.5 shows corrosive water and a saturation index value higher than +0.5 shows scale forming water.

(4) The saturation index value should be maintained between -.5 and +.5. Ideal values are -.2 to +.2 on the saturation index.

(5) If the reading falls outside the range of -.5 and +.5 the licenseholder/operator shall initiate the saturation index adjustments to the pool water within 24 hours.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 1197, Eff. 1/15/10.

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### **37.115.1314 SATURATION INDEX TABLE**

(1) The following is the saturation index table. If the total dissolved solids (TDS) are less than 1,000 ppm then 12.1 is used as the total dissolved solids factor. If the total dissolved solids are greater than 1,000 ppm then 12.2 is used as the total dissolved solids factor.

Table 7.

| Temperature (F°) | Temp Factor (TF) | Calcium Hardness as ppm | Calcium Factor (CF) | Total Alkalinity (TA) | Alkalinity Factor (AF) |
|------------------|------------------|-------------------------|---------------------|-----------------------|------------------------|
| 32               | 0.0              | 5                       | 0.3                 | 5                     | 0.7                    |
| 37               | 0.1              | 25                      | 1.0                 | 25                    | 1.4                    |
| 46               | 0.2              | 50                      | 1.3                 | 50                    | 1.7                    |
| 53               | 0.3              | 75                      | 1.5                 | 75                    | 1.9                    |
| 60               | 0.4              | 100                     | 1.6                 | 100                   | 2.0                    |
| 66               | 0.5              | 150                     | 1.8                 | 150                   | 2.2                    |
| 76               | 0.6              | 200                     | 1.9                 | 200                   | 2.3                    |
| 84               | 0.7              | 300                     | 2.1                 | 300                   | 2.5                    |
| 94               | 0.8              | 400                     | 2.2                 | 400                   | 2.6                    |
| 105              | 0.9              | 800                     | 2.5                 | 800                   | 2.9                    |
| 128              | 1.0              | 1000                    | 2.6                 | 1000                  | 3.0                    |

(2) If a spa does not meet the total alkalinity (TA) level requirements for saturation index and chemical balance, the spa owner must either chemically correct the water chemistry or the spa water must be completely exchanged with fresh make-up water according to one of the following frequency standards:

(a) weekly; or

(b) when the total dissolved solids (TDS) reach 1500 ppm higher than the water supply's base TDS; or

(c) when required by using the following formula: number of spa gallons divided by 3 divided by the number of bathers in a 24 hour period = number of days the spa can be used before draining and refilling with fresh make-up water.

**History:** [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1315 WATER CLARITY**

(1) Acceptable water clarity of a pool, spa, or other water feature shall be maintained at all times. It shall be determined by one of the following methods:

(a) when standing anywhere on the perimeter or deck of the pool, spa, or other water feature, the grates on the main drain(s) at the deepest portion of the pool floor must be clearly visible and sharply defined at all times; or

(b) water must, at all times, have sufficient clarity so that a black disc, six inches in diameter, and placed on a white background in the deepest point of the pool, spa, or other water feature, must be clearly visible and sharply defined when viewed from any point on the deck within five feet of any pool edge.

(2) When the licenseholder or operator disputes the department's determination that a pool, spa, or other water feature does not meet clarity requirement as defined in (1), the department may use an NTU reading to make its final determination. A pool will be determined to have sufficient clarity only where the NTU reading is 1.0 NTU or less.

(3) Clarity readings shall be marked daily on the log sheets for the facility. Clarity readings are defined by the following terms:

(a) "excellent" means that the water is sparkling clear or it has an NTU reading <.5;

- (b) "good" means that the water is clear to very clear or it has an NTU reading of 0.5-1.0; and
- (c) "poor" means the water clarity is significantly deteriorated so that the main drain cannot be seen clearly or the bottom of the pool is obscured, or the water has an NTU reading in excess of 1.0.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 1197, Eff. 1/15/10.

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### **[37.115.1401](#) TYPES OF SIGNS REQUIRED**

(1) Every pool, spa, or other water feature shall conspicuously post signs which meet the requirements of this subchapter and which address the following categories of safety issues:

- (a) prohibited conduct;
- (b) warnings of medical or safety hazards;
- (c) potential disease hazards;
- (d) notification of the supervision that is or is not provided by the facility; and
- (e) diving requirements.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1402](#) GENERAL POOL SIGN REQUIREMENT**

(1) All pools, spas, and other water features that are not required to provide lifeguards under these rules and which do not provide lifeguards shall post a sign that states "NO LIFEGUARD ON DUTY" in clearly legible letters at least four inches high. No other wording may be on this sign.

(2) All pools, spas, and other water features shall post the following sign in letters at least two inches high: "THE MAIN DRAINS MUST BE CLEARLY VISIBLE AND SHARPLY DEFINED FROM ANY POINT ON THE SIDE OF THE POOL. ANYTHING ELSE REQUIRES THE MANAGEMENT TO CLOSE THE POOL".

(3) Pools and other water features must post signs with the following wording or substantially similar wording:

- (a) "Take a cleansing shower before using the pool";
- (b) " Please do not use the pool if you have diarrhea or any other disease transmittable by water";
- (c) "Do not bring food, drink, gum, or tobacco into the pool";
- (d) "Nonswimmers and children under age 14 shall not use the pool without a responsible adult in attendance";
- (e) "Swimmers who are not toilet trained must wear a swim diaper with waterproof pants with elastic opening for legs and waist";
- (f) "Do not change diapers near the pool, or on the deck";
- (g) "No running or rough play";
- (h) "No glass or other breakable material allowed in the pool or deck area";
- (i) "No animals in the pool or deck area except as required under the Americans With Disabilities Act";
- (j) "Offensive or unsanitary behavior is prohibited"; and
- (k) "Capacity of the pool is \_\_\_\_\_".

(4) Pools shall post a "NO DIVING" sign in any area where diving is prohibited.

(5) The facility shall fill in the capacity of the pool as approved in its license in the sign posted under (3)(k).

(6) The department may, as a licensing requirement, require additional notices to be posted if necessary to protect public health or safety based upon the layout of the particular facility.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1403](#) SPA SIGNS**

(1) The following rules shall be posted adjacent to the spa. The wording shall be in the following language or substantially similar language:

- (a) "Take a cleansing shower before using the spa";
- (b) " Please do not use the spa if you have diarrhea or any disease transmittable by water";
- (c) "No person under the influence of drugs and/or alcohol may use the spa";
- (d) "Warning - people using prescription medications and/or having the following medical conditions should consult with their physician before entering the spa: pregnancy, heart disease, diabetes, high blood pressure, or other serious medical condition";
- (e) "Enter and exit the spa slowly";
- (f) "Staying in a spa too long may result in dizziness, fainting, and nausea"; and

- (g) "Heat stroke warning - Users limited to 15 minutes in spa".
- (2) All spas must have a sign in letters not less than one inch high stating: "Children age 5 and under are not allowed in the spa".
- (3) All spas must have a sign adjacent to the spa which identifies spa capacity with the following language: "Capacity of the spa is \_\_\_\_\_".
- (4) The facility shall fill in the capacity of the spa as set in its license on the sign posted under (3).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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#### **37.115.1404 SIGNS FOR WATER SLIDES**

- (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the water slide:
- (a) "One rider at a time. Wait until the landing area is clear before starting down the slide";
  - (b) "Slide in a sitting position or feet first on the back only";
  - (c) "Do not attempt to stop on the slide";
  - (d) "Leave plunge area immediately";
  - (e) "WARNING: Water depth is \_\_\_\_\_ feet"; and
  - (f) "Nonswimmers not permitted if landing area water depth is over five feet".
- (2) The facility shall fill in the depth of the portion of the pool in which the water slide terminates on the sign posted under (1)(e).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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#### **37.115.1405 SIGNS FOR FLUME WATER SLIDES**

- (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the flume water slide:
- (a) "Do not use this slide while under the influence of alcohol and/or drugs";
  - (b) "Follow the instructions of the flume attendant";
  - (c) "No running, standing, kneeling, rotating, tumbling, or stopping in the flume";
  - (d) "Only one person at a time";
  - (e) "Keep your hands inside the flume";
  - (f) "No diving from the flume"; and
  - (g) "Leave the flume pool promptly after entering".

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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#### **37.115.1406 SPRAY POOL/SPLASH DECK SIGNS**

- (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the spray pool:
- (a) Spray hours must be listed and the sign must then state, "Spray pool use at any other time is prohibited";
  - (b) "Please do not use the spray pool/splash deck if you have diarrhea or disease transmittable by water";
  - (c) In two inch letters: "DO NOT DRINK THE WATER";
  - (d) "Children who are not toilet trained must wear swim diapers covered with waterproof pants with elasticized openings for the waist and legs";
  - (e) "Do not change diapers at or near the spray pool"; and
  - (f) "No animals allowed on or near the spray pool".

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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#### **37.115.1501 SAFETY EQUIPMENT**

- (1) Every pool, spa, and other water feature involving pooled water must have the following equipment readily available on-site:
- (a) either a rescue tube or, in the alternative, one or more ring buoys having a maximum of 15 to 16 inches inside diameter with one-quarter inch manila-line or nylon rope at least equal in length to the maximum width of the swimming pool attached securely to the ring buoy and kept in good repair; and
  - (b) a shepherd's crook or reaching pole.

(2) In small pools not exceeding 15 feet in width, the ring buoy with a minimum length of 14 feet of manila line or nylon rope throwing line attached may be substituted for a shepherd's crook or a reaching pole.

(3) Safety equipment must be accessible for immediate use in the area of the pool, spa, or other water feature.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1503](#) ROPES, FLOAT LINES, AND MARKING LINES**

(1) Unless otherwise provided in this rule, a rope and float line with floats spaced no more than five feet apart shall separate the shallow portion of the pool from the deep portion of the pool. It shall be strung across the pool at the shallow end and no deeper than the five foot depth level.

(a) The rope and float line shall be securely fastened to wall anchors of corrosion-resistant materials which shall be recessed or have no projection that will constitute a hazard when the line is removed. The line shall be of sufficient size and strength to offer a good handhold and to support loads normally imposed by users.

(b) A rope and float line must be in place at all times except when the pool use is restricted to lap swimming by competent swimmers, during water exercise classes, or during supervised swim instruction by a swimming instructor.

(2) In pools with uniform slopes not exceeding one foot of drop in 12 feet of run from the shallow end to the deep end a safety float line is not required, but a marking line must be installed or painted across the bottom of the pool at the five foot depth in at least a four inch wide marking in a color contrasting with the color of the floor of the pool.

(3) A rope and float line must be provided between pools that are interconnected if one of the pools is or has a portion that is deeper than five feet.

(4) A rope and float line must be provided to separate water slide catch pools from other swimming areas. On all new pools constructed after March 1, 2010, a marking line on the bottom of the pool must be installed in a color contrasting with the color of the floor and must be at least four inches wide to designate the location of each rope and float line required by this rule in order to provide an additional designation showing a change in pool depth or pool type.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1505](#) FIRST AID KIT**

(1) A first aid kit such as the American Red Cross 10 Person Industrial First Aid, or any such kit designed for use by lifeguards shall be readily available at all times.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1507](#) TELEPHONE REQUIRED**

(1) A telephone with an attached handset shall be affixed to the wall near the new or existing pool, spa, or other water feature for the purpose of contacting emergency medical services except splash decks.

(2) Emergency supplies required in ARM [37.115.1507](#) must be located in a place where the person making a call for emergency medical services can conveniently render assistance after making the call or while on the telephone with emergency services.

(3) Instructions regarding emergency calls shall be prominently posted next to the telephone or near an entryway of a splash deck and must include the following:

(a) how to notify the appropriate EMS personnel. For example, the sign should:

(i) list the numbers needed to contact EMS personnel, such as 911; or

(ii) if an outside line is required, such as needing to dial "9" or "8" before dialing 911; or

(iii) in a location without 911 services, the direct emergency line to EMS must be provided;

(b) the name and telephone number for the management of the facility;

(c) the name, location, and address of the facility in which the pool, spa, or other water feature is located;

(d) directions on how to find the facility and on how to find the location of the telephone from which the call is being made; and

(e) the location of first aid and life saving equipment.

(4) If a phone is not provided at the splash deck, then there must be a sign posted at the entry stating "No Public Phone Available".

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 1197, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1601 WHEN LIFEGUARDS ARE REQUIRED**

(1) Lifeguards are required to be present and on duty during the operation of any municipally owned or operated pool, spa, or other water feature except splash decks.

(2) Water slides that are 11 feet or greater in height may be required to provide a lifeguard at the bottom of the slide and an attendant at the top of the slide as decided by the department.

(3) Lifeguards are required for all wave pools and all vortex pools.

(4) When lifeguards are required, the facility must have certified or licensed lifeguards who are authorized and assigned to enforce and ensure compliance with all safety rules at the pool, spa, or other water features and surrounding deck area.

(5) When lifeguards are provided voluntarily, all lifeguard requirements must be met.

(6) Lifeguards shall be stationed around any pool, spa, or other water feature in a pattern that provides them clear line of sight to all areas of the pool, spa, or other water feature.

(7) When a lifeguard is required or provided at a pool or other water feature, an elevated seat for the lifeguard must be provided in areas where water depth is deeper than five feet. The lifeguard chair must be located within two feet of the edge of the swimming pool and must be high enough to give the lifeguard a complete and unobstructed view of the area of the pool that the lifeguard is responsible for patrolling.

(8) Lifeguards shall be equipped with a rescue tube and must be attired so that they are readily identifiable as members of the lifeguard staff.

(9) Lifeguards shall remain attentive to bathers at all times, and minimize any source of distraction.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1602 WHEN LIFEGUARDS ARE NOT REQUIRED**

(1) Except as provided in ARM [37.115.1601](#), privately owned public pools, spas, and other water features, are not required to have a lifeguard on duty if:

(a) a sign is prominently displayed adjacent to the swimming pool, spa, or other water feature, in letters at least four inches high that states: "NO LIFEGUARD ON DUTY"; and

(b) one individual per shift is on the premises and has ready access to the pool and is currently certified as competent in cardiopulmonary resuscitation (CPR) by either the American Red Cross or the American Heart Association.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1603 CERTIFICATION OF LIFEGUARDS**

(1) A "certified lifeguard" means an individual who holds current certification in a course sponsored by one of the following courses:

(a) American Red Cross Lifeguard Training;

(b) YMCA Lifeguarding;

(c) Boy Scouts of America Lifeguard;

(d) International Lifeguard Training Program (ILTP) of Jeff Ellis and Associates; or

(e) another program that is substantially equivalent to the above programs and which is approved by the department.

(2) "Licensed lifeguard" means an individual who holds a current license from the National Pool and Waterpark Lifeguard Training Program in one of the following programs:

(a) National Pool and Waterpark Pool Lifeguard;

(b) National Pool and Waterpark Lifeguard Training; or

(c) National Pool and Waterpark Deep Water Lifeguard.

(3) In addition to holding a current certification or license from one of the agencies listed in (1) or (2), each lifeguard must also hold current certification:

(a) by the American Red Cross or the American Heart Association in infant, child, and adult cardiopulmonary resuscitation (CPR); and

(b) by the American Heart Association in standard first aid or an equivalent first-aid course.

(4) Each lifeguard must meet the minimum age requirement set by the certifying or licensing agency as listed in (1) or (2).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1604 NUMBERS OF LIFEGUARDS AND LIFEGUARD PLACEMENT**

(1) When required by these rules or when provided voluntarily, at least one lifeguard shall be on duty at all times per 2000 square feet of pool area or fraction thereof, except:

(a) during organized swim lessons with certified lifeguards as instructors for no more than ten swimmers each, a lifeguard must be on duty for the first 2000 square feet of pool area with an additional lifeguard for each additional 4000 square feet of pool area; or

(b) a pool facility may temporarily reduce the number of lifeguards required by closing an appropriately sized portion of the pool.

(2) Lifeguards must be stationed in a position which gives the lifeguard an unobstructed view of the area of the pool the lifeguard is responsible to patrol to ensure that the lifeguard is able to recognize a person in distress and provide for a rescue if needed.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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#### **[37.115.1701](#) POOL CARE**

(1) All public swimming pools, spas, and other water features and related facilities shall be maintained in a safe, clean, and sanitary condition at all times.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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#### **[37.115.1702](#) DECK CARE**

(1) Decks shall be cleaned daily or as necessary. When cleaned with a spray, care must be taken to prevent deck wash material from draining back into any pool, spa, or other water feature.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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#### **[37.115.1703](#) FOOD, DRINK, TOBACCO USE**

(1) Eating, drinking, and use of tobacco shall not be permitted in the swimming pool, spa, or other water feature or in other areas designed for bathers, with the exception of water in nonbreakable containers.

(2) Eating and drinking may be allowed in areas adjacent to the pool or spa areas if designed by the management for this use, unless the pool is intended for use for accredited competitive aquatic events by sanctioning groups such as the La Federation Internationale De Natation Amateur (FINA), the National Collegiate Athletic Association (NCAA), or the National Federation of State High School Associations (NFSHSA).

(3) Any food or drink served or consumed in areas adjacent to any pool that are designed for consumption of food or drinks must be in unbreakable containers.

(4) Trash containers must be provided in areas designed for food consumption.

(5) Smoking is prohibited in all indoor public facilities. Tobacco products including, but not limited to, cigarettes, cigars, pipe tobacco or spit or chew tobacco shall not be permitted in an area adjacent to an outdoor pool, spa, or other water feature, unless the area is specifically designed and authorized by the management for this use.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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#### **[37.115.1704](#) NO ANIMALS PERMITTED IN OR NEAR POOLS**

(1) Except as provided in (2), no animals shall be permitted in any pool, spa, or other water features or in the vicinity of any pool, spa, or other water feature.

(2) Service animals shall be permitted only on the deck area of a pool, spa, or other water feature, if needed, but may not enter the water.

(3) A service animal may be excluded from the facility or portions of the facility whenever its behavior or health poses a direct threat to the health or safety of others.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1801 REVIEW OF NONCONFORMING SPECIALTY POOLS AND WATER FEATURES**

(1) The department may approve specialty water pools and water features not specifically addressed in these rules if, upon its plan review, the department determines that the design complies with all substantive requirements of these rules or any other applicable federal or state laws or rules and presents no public health and safety concerns.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1803 WATER SLIDES GENERALLY**

- (1) When a water slide is provided in conjunction with a pool, the slide must:
  - (a) be installed according to the manufacturer's instructions;
  - (b) be approved by the manufacturer for commercial use whether installed in a public or privately owned public swimming pool;
  - (c) meet all applicable building codes;
  - (d) meet the requirement of 16 CFR, part 1207;
  - (e) water slides that are 11 feet or greater in height may be required to provide a lifeguard at the bottom of the slide and an attendant at the top of the slide when no clear line of sight is possible from the slide entrance platform to slide exit; and
  - (f) one attendant may monitor two slides if the entrances to the slides are less than ten feet apart.
- (2) The support structure for a water slide and for any access stairs or ramps shall be designed and constructed to withstand the anticipated structural load, both static and dynamic, including wind forces.
- (3) A stairway providing access to the top of a water slide shall be at least two feet wide. Stair surfaces shall be slip-resistant and easily cleanable.
- (4) The stairway shall comply with the applicable requirements of state and local building codes, and requirements set by the Occupational Safety and Health Administration.
- (5) The plans for slide structures must be approved and stamped by a licensed structural engineer.
- (6) Water slides must be operated in accordance with the slide manufacturer's guidelines.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1804 CHILDREN'S ACTIVITY SLIDE**

(1) Children's activity slides are small slides with a low exit velocity designed by the manufacturer for use by small children at pools. They must be designated by the manufacturer for use in 24 inches or less of water and must be installed according to the manufacturer's directions.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1805 DROP WATER SLIDES**

(1) Drop water slides are slides which discharge to a pool with a drop of more than two inches to the water surface. Drop water slides shall comply with other applicable provisions of these rules and the following:

- (a) The drop slide catch pool must extend five feet on either side of the center line of the slide and must extend to 20 feet in front of the slide.
  - (b) The drop slide catch pool must be clearly designated by float ropes.
  - (c) The terminus of the slide chute must extend beyond the pool wall into the pool and must be oriented so that the safety area in front of the slide does not interfere with the safety area of another slide or other pool equipment.
  - (d) The area from the slide terminus outward six feet in front of the slide terminus must have a depth as established from Table 8. The slide must be constructed so the rider enters the water in this six foot area. If the depth of the catch pool is five feet or less, the bottom of the catch pool must have a maximum slope of one inch in 12 inches (1:12), and the slide must be located at least five feet from any change to steeper slopes of the pool bottom.
- (2) The deck around a water slide plunge pool shall be at least four feet wide, except on the side where the flume enters the pool. A walkway which is at least four feet wide and meets the requirements of a deck shall be provided between the plunge pool and the slide steps.
- (3) If the water slide flume ends in a swimming pool, the water level shall not be lowered more than one inch when the flume pump is operating.

Table 8.

| Maximum Slide Exit Height Above the Water | Required Minimum Water Depth from the Slide Terminus to Six Feet in Front of the Terminus |
|---|---|
| 12 inches                                 | 4 feet minimum  |
| 42 inches                                 | 8 feet minimum  |

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 1197, Eff. 1/15/10.

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### **37.115.1806 FLUME WATER SLIDES**

- (1) Flume water slides shall comply with all other applicable provisions of these rules and the following:
- (a) A water slide flume shall comply with the following construction requirements:
- (i) the last ten feet of flume shall be straight no closer than five feet to the plunge or swimming pool wall;
  - (ii) the flume shall be sloped no more than one foot vertical for ten feet horizontal for at least the last ten feet before the end of the flume;
  - (iii) the flume shall terminate between six inches below and two inches above the design water level in the plunge pool or swimming pool;
  - (iv) at the level the flume approaches the water, it shall be at least five feet away from any sides of the plunge pool or swimming pool and adjacent flumes shall be at least ten feet apart on center at the exit point;
  - (v) the inside surface of a flume shall be smooth and continuous; and
  - (vi) the flume shall be designed so that users cannot be thrown out of the flume and to minimize user collisions with the sides of the flume.
- (b) The landing area for a water slide flume shall comply with the following:
- (i) there shall be at least 20 feet between the end of the flume and any barrier or steps; and
  - (ii) if the water slide flume ends in a swimming pool, the landing area shall be divided from the rest of the swimming pool by a float line.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1807 SPEED SLIDES**

- (1) Speed slides shall comply with all other applicable provisions of these rules.
- (2) A speed slide shall provide for the safe deceleration of the user. A run-out system or a special plunge pool entry system shall control the body position of the user relative to the slide to provide for a safe exit from the ride.
- (3) The slide must be installed according to manufacturer's instructions.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1808 CRITERIA FOR WATER SLIDES ENTRAPMENT PREVENTION**

- (1) If a flume pump intake is in a plunge pool or in a swimming pool, it shall be located away from normal water slide user traffic areas. To prevent suction entrapment at the flume pump intake, one of the following designs shall be used:
- (a) Multiple intakes may be used. Intakes shall be at least three feet apart. The intakes shall be covered with grates or other protective covers designed to prevent user entrapment. Water velocity through the intake covers shall not exceed one and one-half feet per second; or
- (b) The pump intake for the water slide shall have an area of at least 342 square inches.
- (2) An intake cover shall be designed to prevent user entrapment. It shall be in place at all times and it shall be securely fastened to the pool or to the intake pipe so it cannot be removed without specific tools.
- (3) Water slide pump intakes must meet the requirements of the Virginia Graeme Baker Act, 15 USC 8001-8005 and ASME

A112.19.8 (2007).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1809](#) ZERO DEPTH ENTRY TO POOL**

(1) Any zero depth or "beach" entry to a pool shall comply with all other applicable sections of ARM Title 37, chapter 34, subchapters 1 through 22, and with (2) through (3).

(2) There shall be an overflow drain or weir installed across the full width of the zero depth end of the pool or around the entire perimeter, whichever is more effective in circulating the water or removing the water properly to the sewer system.

(a) The drain shall be covered with a grate designed to prevent entrapment and designed so that it is not removable without a specific tool; and

(b) The drain and its associated piping shall be designed to convey at least 50 percent of the recirculation flow rate.

(3) The deck above the overflow drain at the zero depth end of the pool may slope to the overflow drain for a distance no greater than 15 feet. The deck slope shall be no greater than one foot vertical in 12 feet horizontal.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1810](#) MULTISECTION RECREATIONAL POOLS**

(1) A multisection recreational pool shall comply with all other applicable provisions of the rules. In addition:

(a) each section of a multisection recreational pool shall have the demonstrated ability to ensure the proper turnover rate for each section as described in ARM [37.115.1002](#), Table 5, or all sections will need to meet the most stringent of the turnover rates; and

(b) each section of a multisection recreational pool shall be separated from the other sections by a float line and marking line meeting the requirements of ARM [37.115.1503](#).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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(a) each section of a multisection recreational pool shall have the demonstrated ability to ensure the proper turnover rate for each section as described in ARM [37.115.1002](#), Table 5, or all sections will need to meet the most stringent of the turnover rates; and

(b) each section of a multisection recreational pool shall be separated from the other sections by a float line and marking line meeting the requirements of ARM [37.115.1503](#).

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1811](#) SPLASH DECKS - WATER CIRCULATION**

(1) Splash decks may be constructed so that the water drains immediately to a waste water system. Splash decks must use water from an approved water supply. The water that is drained to a waste water system shall be disposed of in a manner approved by the Department of Environmental Quality.

(2) If the water from a splash deck does not drain immediately to a waste water system, then a chlorination system and filtration system must be in place that meets the requirements of these rules.

(3) A circulation system consisting of pumps, piping, filters, water conditioning and disinfectant equipment and other accessory equipment which meet the requirements of these rules shall be provided which will clarify, chemically balance, and disinfect the water. The splash deck's treatment tank filtration circulation and chemical disinfectant equipment must operate 24 hours a day.

(4) Water may be used one time and immediately drained to waste water or it may be circulated and disinfected. Existing splash decks that circulate water must circulate the entire volume of water through an approved treatment system every hour or less.

(5) A surge tank constructed or installed after March 1, 2010 for a splash deck must hold a minimum of 4000 gallons. The surge tank capacity must also be at least three times the combined flow rates of all attraction features and recirculation pumps based upon a minimum flow of five gallons per minute.

(6) An automatic water level controller shall be provided for the splash deck treatment tank.

(7) A screen or similar device shall be provided through which all water from the splash deck shall pass before entering the splash deck recirculation tank. In the alternative, the splash deck may use another method or process that is approved by the department and provides for the removal of debris on the surface layer of the water in the recirculation tank.

(8) Sufficient numbers of filtered or treated water inlets shall be provided and located to ensure complete mixing and circulation of treated water within the splash deck recirculation tank.

(9) At least one main drain suction outlet that supplies water to the splash deck circulation tank filtration system shall be provided at the deepest point in the splash deck recirculation tank.

(10) The pipes, fittings, and valves of the recirculation system shall be sized so that velocities of water in the piping does not exceed six feet per second under suction, ten feet per second under pressure, or three feet per second in gravity flow. The water velocity limits may be exceeded when hydraulic computations indicate that use of higher velocities will not adversely affect the splash deck recirculation system.

(11) A means of continuously measuring the rate of water flow shall be provided in the recirculation system.

(12) An automatic feeder which is easily adjustable shall be provided for the application of disinfectant.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1812](#) SPLASH DECKS - GENERAL REQUIREMENTS**

(1) Each splash deck shall have:

(a) surfaces with nonslip finishes that are impervious to water and easily cleanable; and

(b) uniform pool floor slopes not exceeding 1/2 inch per foot of horizontal floor length and which are sloped to drain to prevent water from collecting on the pad.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1813](#) SPLASH DECKS - DRAIN SYSTEMS**

(1) Outlets must be located at the low point of the splash decks.

(2) Splash decks must have two or more main drains located a minimum of three feet apart.

(3) Drain covers must meet the following requirements:

(a) outlet drains to each splash deck recirculation pump must have drain covers that measure 12 inches x 12 inches or greater in size;

(b) the maximum width of any opening in the main drain cover must not exceed 1/2 inch; and

(c) drain covers must withstand the anticipated force of users and must be removable only with specific tools.

(4) Flow through the drains to the treatment tank shall be gravity flow only. Direct suction outlets from the splash deck are prohibited.

(5) In any splash deck that recirculates the water after sanitizing it, the cleaning drains that drain directly to waste water must be located around the perimeter of the pad at a sufficient number of locations to drain water used to clean the pad so that it does not enter a main drain to be recirculated. The slope of the spray pad must change around the perimeter to slope toward the cleaning drains.

(6) Spray or play features must drain completely at night with no water left standing on the surface.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1814](#) SPLASH DECKS - RESTROOM REQUIREMENTS**

This rule has been repealed.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **REP**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1815](#) SPLASH DECKS - CLEANING REQUIREMENTS**

(1) Hose bibs with anti-siphonage devices shall be provided around splash decks at a maximum spacing of one hundred fifty feet. At the beginning of each day prior to use and at other times when needed, the splash deck must be adequately cleaned and flushed to remove any materials or contaminants on the surface area of the splash deck. The water must be flushed to the waste

water system and not discharged into the splash deck circulation tank.

(2) The splash deck circulation tank must be designed to provide ready access for cleaning and must be capable of draining. An overflow pipe to convey excess water to an approved wastewater discharge system must be provided.

(3) The splash deck circulation tank shall be completely drained and cleaned whenever needed to maintain water quality parameters set by these rules, including but not limited to the parameters for alkalinity, pH, and chlorine.

(4) The splash deck recirculation tank shall be completely drained and cleaned whenever needed to maintain water quality parameters set by these rules, including but not limited to the parameters for alkalinity, pH, and chlorine.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1817](#) SPAS TEMPERATURE**

(1) Spas must comply with all other applicable provisions of these rules.

(2) Spas that are not flow-through hot springs spas must be operated at a water temperature not exceeding 104°F as determined by the use of an inline thermometer. A spa that is a flow-through hot springs may not operate at a temperature above 106°F.

(a) An inline thermometer is required for all spas and the spa operator shall also have an accurate portable thermometer and shall manually check the water temperature as required by these rules to help ensure that the temperature does not exceed the maximum allowable temperature.

(b) The operators shall verify the accuracy of their manual thermometers periodically in an ice bath. The temperature of an ice bath should read 32°F.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1819](#) SPA CIRCULATION REQUIREMENTS**

(1) Spas must meet the following circulation system requirements:

(a) A minimum of two hydraulically balanced main drains shall be provided for each pump in the suction outlet system, separated by a minimum of three feet or located on two different planes such as one on the bottom of the spa and one located on the vertical wall of the spa. These suction outlets shall be plumbed so that water is drawn through them in a hydraulically balanced manner through a common line to the pump;

(b) Spa suction outlets shall have a cover installed that has been tested and accepted by a nationally recognized testing laboratory and that complies with ASME A112.19.8-2007;

(c) At least one surface skimmer shall be installed for each one hundred fifty square feet or fraction thereof of spa water surface area. Skimmers shall be located to optimize skimming action over the surface of the spa;

(d) The number of required return inlets shall be based on a minimum of one return inlet per 300 square feet of water surface area or fraction thereof. A minimum of two recirculation inlets are required regardless of spa size;

(e) A cleanable strainer or screen shall be provided upstream of the circulation pump for all pressure filter systems to remove solids, hair, lint, or other debris;

(f) An adequately sized NSF-approved pump capable of producing a turnover of 100 percent of the spa water in 30 minutes or less, must be installed;

(g) An adequately sized NSF-approved filter capable of filtering the entire contents of the spa in no more than 30 minutes or less must be installed;

(h) A spa circulation system must include a flow indicator to measure the gallons per minute (GPM) flowing through the spa; and

(i) A spa circulation system must include a means of backwashing or draining the spa into an approved waste water disposal system.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1821](#) SPA SANITATION REQUIREMENTS**

(1) All disinfectant equipment shall be approved by the NSF International and shall be capable of introducing a sufficient quantity of sanitizer to maintain the minimum required levels of sanitizer under all conditions of intended use.

(2) Disinfectant levels for spas shall be 2-8 ppm for chlorine or 2-10 ppm bromine at all times.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1823 SPA CLEANING REQUIREMENTS**

- (1) Spa operators must drain, thoroughly clean, and disinfect the spa:
  - (a) weekly; or
  - (b) when the total dissolved solids reach 1500 ppm above the levels in the potable water supply used for the spa; or
  - (c) when required as determined by using the following formula: number of spa gallons divided by three divided by the number of bathers in a 24-hour period equals the number of days before draining, cleaning, and disinfecting the spa is required.
- (2) The operator must document the date the spa was drained and cleaned and whether the spa is drained and cleaned weekly or based upon the criteria in (1)(b) or (c). If the spa is drained and cleaned based upon total dissolved solids, that reading must be documented. If the spa is drained and cleaned based upon the size of the spa and the number of users, the licensee must maintain records showing the number of users in each 24-hour period.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1824 EXTERNAL SPA EQUIPMENT REQUIREMENTS**

- (1) Control switches for the spa jets must be located outside of the spa so that the bathers must physically get out of the spa to turn the jets on or off. Jet timers allow a maximum of 15 minutes of spa operation at a time.
- (2) Every spa must have a clock visible from the spa so that bathers can monitor the time they have spent in the spa.
- (3) After March 1, 2010 all new spa installations shall have a master shutoff switch that shuts off the power to all components of the spa, including jet pumps, and the circulation pumps. The master shutoff switch must be adjacent to the spa, easily accessible, and clearly visible in case of an emergency.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1825 SPA DEPTH**

- (1) The maximum water depth shall be four feet measured from the design waterline except for spas that are designed for special purposes such as therapy and are approved by the department for those purposes.
- (2) Spas shall have permanent depth markers plainly and conspicuously visible from all obvious points of entry.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1826 SPA SEATING**

- (1) Multi-level seating may be provided, but the maximum water depth of any seat or sitting bench shall be 28 inches measured from the design waterline.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1827 SPA DECK REQUIREMENTS**

- (1) A minimum four foot wide continuous, unobstructed deck shall be provided around at least 50 percent of the spa.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1828 SPA ENTRY REQUIREMENTS**

- (1) Spa steps that meet the requirements of these rules must be provided when the spa is more than two feet deep.
- (2) A spa must be equipped with at least one handrail at each point of entry and exit.
- (3) The surfaces within the spa intended to provide footing for users shall be made of slip resistant surfaces. The texture of such surfaces shall not cause injury or discomfort during normal use.
- (4) The spa shall be provided with a handhold around the perimeter in areas where water depths exceed three feet six inches.



History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 1197, Eff. 1/15/10.

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### [37.115.1835](#) WADING POOLS

- (1) Wading pools must comply with all other applicable provisions of these rules.
- (2) After December 31, 2011, fill and drain wading pools are prohibited.

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.1836](#) WADING POOLS - CIRCULATION AND DISINFECTANT SYSTEM REQUIREMENTS

- (1) A wading pool shall be a separate pool with an independent circulation and disinfectant system independent from any other adjacent pool and shall be physically separated from all other pools.
- (2) Wading pools must have a recirculation and disinfectant system of its own that is capable of a one hour turnover rate.

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.1837](#) WADING POOLS - BARRIER REQUIREMENTS

- (1) Wading pools for children shall be physically separated from swimming pools by means of at least a 4-foot high barrier. A barrier shall be provided on the outside of the deck area of all wading pools and shall meet the following requirements:
  - (a) Barriers shall not allow passage of a 4-inch or greater diameter sphere through the barrier;
  - (b) The maximum clearance at the bottom of the barrier shall not exceed four inches;
  - (c) Barriers shall be located beyond the minimum deck space requirements, but shall be located so that the area intended for waders can be isolated from other pools;
  - (d) The wading pool shall be visible through the barrier;
  - (e) Barriers shall be equipped with self-closing gates or doors with self-latching closers and locking mechanisms and shall be constructed so that all gates or doors in the barrier open out from the wading pool; and
  - (f) Barriers shall be impenetrable for small children and must not offer any external handholds or footholds.

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### [37.115.1838](#) WADING POOLS - DEPTH AND SLOPE

- (1) Wading pools shall have a maximum water depth of 24 inches.
- (2) Floors of wading pools shall be uniform and sloped to drain completely with a maximum slope of one foot in 12 feet; and the floors must have a slip-resistant finish.

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.1839](#) WADING POOL ATTENDANT REQUIREMENTS

- (1) Publicly owned wading pools must have at least one attendant present at all times during operation hours and the attendant must be in complete charge of the wading pool facility and have the authority to enforce all safety rules.
- (2) Each attendant must be currently certified by either the American Red Cross or the American Heart Association in methods of infant, child, and adult cardiopulmonary resuscitation (CPR) and must be certified by the American Red Cross (or equivalent) in at least standard first aid.
- (3) Each attendant must be at least 15 years of age.
- (4) The attendant must be on duty at all times when a wading pool is open for use by bathers.

History: [50-53-103](#), MCA; [IMP](#), [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10; [AMD](#), 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1840 WADING POOL RESTROOM AND CHANGING TABLE REQUIREMENTS**

- (1) Changing and toilet facilities must be provided. They must provide the minimum required fixtures set in ARM [37.115.903](#), Table 4.
- (2) Each restroom shall provide at least one changing table station and a waste disposal container for used diapers.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 313, Eff. 12/9/11.

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### **37.115.1845 FLOW-THROUGH HOT SPRINGS POOLS AND SPAS - GENERALLY**

- (1) A flow-through hot springs pool or spa must comply with all other provisions of these rules, except for the following:
  - (a) the pH of pool water in a flow-through hot spring pool must be maintained at no less than 7.2 and no greater than 9.4 with proper signage;
  - (b) the temperature of a flow-through hot spring pool or spa may not exceed 106°F in a pool or spa primarily used for soaking and may not exceed 100°F in a pool used primarily for swimming; and
  - (c) the turnover rate of a flow-through hot spring pool may not exceed eight hours.
- (2) Every hot springs pool or spa or flow-through hot spring pool or spa must be equipped with an accurate flow indicator to measure the turnover rate, except that the department may approve the use of an alternate method of establishing an accurate flow rate. To demonstrate that an alternative means of measurement is accurate, the applicant must submit a written application for approval to use that alternative method. The application must demonstrate that the alternative method accurately measures the water volume exchange to produce an 8-hour turnover of the entire volume of pool water to waste water discharge.
- (3) Every hot springs pool or spa or flow-through hot springs pool or spa must have an inline thermometer installed to monitor the temperature of the pool. The department may allow an alternative method of monitoring pool temperature upon a showing by an applicant who demonstrates that the water temperature can be accurately measured by the alternative method and that the use of the alternative method does not have the potential to cause adverse public health effects. When an alternative method is used to monitor pool temperature, the licensee is responsible for recording the pool temperatures a minimum of twice a day or more frequently as needed to demonstrate that the temperature is being regulated. The reading shall be recorded and maintained on forms approved by the department.
- (4) A sign shall be posted that states: "For their protection, children under the age of 5 are not allowed to enter water over 100 degrees Fahrenheit. The temperature of the pool is \_\_\_\_\_, checked at (time) and the pH is \_\_\_\_\_". The letters in the posting shall be four inches tall and on a separate sign. This requirement must be posted by December 31, 2011.
- (5) A thermometer must be in place, available for the patrons to check. Documentation of weekly thermometer calibration must be kept on file for three years.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), [50-53-108](#), [50-53-115](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10; **AMD,** 2011 MAR p. 2657, Eff. 12/9/11.

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### **37.115.1846 HOT SPRINGS POOLS AND SPAS AND FLOW-THROUGH HOT SPRINGS POOLS AND SPAS - CLEANING REQUIREMENTS**

- (1) If the pH of a hot springs pool or spa exceeds a pH of 8.5, a sign must be posted adjacent to the pool or spa notifying users that a pH higher than 8.5 may cause skin irritation and indicating the pH of the water for that date of operation.
- (2) Each hot springs pool or spa or flow-through hot springs pool or spa must be maintained to prevent corrosion, algae growth, and other mineral accumulation on the pool wall, floor, and equipment.
- (3) Each hot springs pool or spa or flow-through hot springs pool or spa that does not use a chemical disinfectant must be drained, cleaned, and sanitized every 72 hours, along with all surfaces that flow into the pool. Records of the cleaning must be maintained in accordance with the record keeping requirements of these rules.
- (4) If the hot springs pool or spa or the flow-through hot springs pool or spa is not chemically disinfected, a sign must be conspicuously posted at pool side that states the following in the same words or words of substantially the same meaning: "State law does not require chemical disinfection of this pool (or spa) if it is completely drained and sanitized every 72 hours. No one with any disease communicable by water is allowed in the pool or spa."

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), [50-53-108](#), [50-53-115](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.1847 OTHER SPECIAL PURPOSE POOLS**

- (1) Special purpose pools including, but not limited to, wave action pools, rafting rides, wave surf rides, activity pools, catch pools, leisure rivers, vortex pools, interactive play attraction pools, amusement park attraction features, scuba training pools, and

therapy pools shall meet all requirements of these rules.

(2) Any specialty pool or attraction must install and operate all features in compliance with the manufacturer's recommendations.

(3) An engineer or architect must oversee plans for all specialty attractions.

(4) The department may set additional requirements for specialty attractions in the following areas as needed to protect public health and safety:

- (a) lifeguards;
- (b) minimum times required between users beginning the ride;
- (c) minimum and maximum water velocities;
- (d) water turnover time; and
- (e) required use of Coast Guard approved personal flotation devices.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1901](#) ANNUAL LICENSING AND FEES**

(1) No public swimming pool, spa, or other water feature or related facilities as defined in this chapter shall operate without a license.

(2) A license must be obtained for each separate public swimming pool, spa, or other water feature. A public swimming pool is considered separate if:

- (a) its water does not commingle with water from any other public swimming pool; or
- (b) it is serviced by a separate water filtration system.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1902](#) LICENSE TO BE RENEWED ANNUALLY**

(1) Licenses must be obtained annually.

(2) License fees are due on or before January 1 of the license year.

**History:** [50-53-103](#), MCA; **IMP,** [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1903](#) LICENSE EXPIRATION; CONTINUATION OF LICENSE DURING RENEWAL PROCESS**

(1) A license expires on December 31 of the year of issuance. However, when a licensee has timely applied for renewal of the license and has submitted the fee and any other documents required, the existing license will continue in effect until the department has completed review of the application for renewal and has determined whether to grant or deny the renewal.

(2) Except as provided in (3), if the department denies the application for renewal of the license or newly limits the license, the license will continue in effect until the last day available for seeking review of the agency order or until a later date fixed by order of a reviewing court.

(3) If grounds exist to order emergency closure of a swimming pool, spa, or other water feature, the department may do so in compliance with these rules even though the licensee or license applicant is in the process of challenging the denial or renewal of the license.

**History:** [50-53-103](#), MCA; **IMP,** [2-4-631](#), [50-53-204](#), MCA; **NEW,** 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1905](#) GRANDFATHER CLAUSE**

(1) Any licensed pool, spa, or other water feature that is regularly operating on or before March 1, 2010 is entitled to a grandfather clause exemption from any requirement to upgrade to new design and construction standards set in ARM Title 37, chapter 115, subchapters 1 through 22, except as otherwise specifically provided in ARM Title 37, chapter 115, subchapters 1 through 22, until one or more of the following occurs:

- (a) the pool, spa, or other water feature undergoes reconstruction, remodeling, or renovation;
- (b) the license is allowed to lapse or is not timely renewed after notice of renewal has been sent to the licensee;
- (c) the license has been suspended for 90 days or longer as a penalty for violation of a provision of Title 50, chapter 53, MCA or these rules and the order of suspension is final; or
- (d) the license has been cancelled and the order of cancellation is final.

(2) Where some aspect of a currently licensed pool, spa, or other water feature, such as the physical plant or circulation system, is reconstructed, remodeled, or renovated, it loses its grandfather protection with regard to the area or aspect of the pool, spa, or other water feature being modified.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-104](#), [50-53-204](#), [50-53-216](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.1907](#) APPLICATION AND FEE FOR LICENSE OR FOR LICENSE RENEWAL**

(1) An application for either an original or a renewal license to operate a public swimming pool, spa, or other water feature must be made to the department, must contain the information required by the department, and must be accompanied by the following license fees:

- (a) \$200 for any swimming pool or other water feature; or
- (b) \$75 for a spa or wading pool with a total water capacity not exceeding 4000 gallons; and
- (c) a late renewal fee of \$25 for each calendar month past the license renewal due date that the license fee is not paid. The pool, spa, or other water feature may not operate until the license fee or late renewal fee are both paid in full.

(2) Licenses are only valid if signed by an authorized representative of the department.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1909](#) LICENSE NOT TRANSFERRABLE**

(1) A license for a pool, spa, or other water feature is nontransferable. When a new owner purchases a swimming pool, spa, or other water feature, a new license application must be submitted to the department and any new license fees must be paid.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1910](#) LICENSE TO BE DISPLAYED**

(1) The license shall be prominently displayed at the public swimming pool, spa, or other water feature.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1911](#) RETURN OF LICENSE**

(1) The licensee shall return any license that has been cancelled to the department for destruction of the license and deletion of the listing of the swimming pool, spa, or other water feature at issue.

(2) Cancellation of a license by the department is effective even if the licensee fails to return the license to the department.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-214](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.1912](#) WHEN LICENSE NOT REQUIRED**

(1) Licenses are not required for the following:

- (a) natural or recreational bodies of water;
- (b) swimming pools located on private property, including owner-occupied condominium developments, and which are used for swimming or bathing only by the owner, members of the owner's family, or their invited guests;
- (c) hot water baths for single use;
- (d) a pool or spa at a tourist home, if it is not used by the parties renting or leasing the home or if it is completely drained, cleaned, and refilled between guests;
- (e) spa pools in individual hotel or motel rooms or in individual cabins that are completely drained, cleaned, and refilled between patron use; and
- (f) pools or spas at condominium units that are leased for periods of one month or greater.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-101](#), [50-53-102](#), [50-53-103](#), [50-53-104](#), [50-53-106](#), [50-53-107](#), MCA; **NEW**, 2010 MAR

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**37.115.2001 INSPECTIONS**

- (1) Any agent of the department or any other regulatory authority that has jurisdiction over an aspect of the operation of a swimming pool, spa, or other water feature may, after showing proper identification, enter any facilities associated with the operation of the public swimming pool, spa, or other water feature at any time the facility has staff present or is operating, and may conduct an inspection to determine compliance with the requirements of these or other applicable rules. The inspecting agent shall be permitted to examine any records pertaining to the operation, maintenance, or personnel employed at the facility and collect water samples.
- (2) Whenever an inspection of a public swimming pool, spa, or other water feature or related facility is made to determine compliance with these rules, the findings shall be recorded on an inspection form provided by the department.
- (3) If the inspecting agent determines that one or more violations exist, the inspection form shall be marked to designate the violation the inspector has identified, any correction which needs to be made, and the date by which the correction must be made.
- (4) A copy of the completed inspection report form shall be furnished to the person in charge of the swimming pool, spa, or other water feature at the conclusion of the inspection. Except for portions of a completed inspection form, which implicate an individual right of privacy, the completed inspection form is a public document that shall be available for public review or distribution to any person upon request and upon payment of a reasonable copying fee.
- (5) The department may close any public swimming pool, spa, or other water feature not operating in conformity with these rules.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-104](#), [50-53-105](#), [50-53-107](#), [50-53-108](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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**37.115.2002 INSPECTIONS BY LOCAL HEALTH OFFICERS**

- (1) A local board of health may enter into a cooperative agreement with the department to conduct inspections and enforce statutes and rules applicable to swimming pools, spas, and other water features.
- (2) A local board of health that has entered into a cooperative agreement may have its trained sanitarian conduct the inspections.
- (3) The local sanitarian must be trained by the department in swimming pool inspection techniques. The department shall periodically make such training available.
- (4) Upon request of the department, a local board of health acting under a cooperative agreement shall ensure that its trained sanitarian conducts a precicensing inspection pursuant to ARM [37.115.2002](#).
- (5) A local board of health acting under a cooperative agreement shall ensure that its trained sanitarian conducts the following annual inspections:
  - (a) at least one full facility inspection and one critical point inspection of each swimming pool, spa, or other water feature that is open and operating on a year round basis; and
  - (b) at least one full facility inspection of each swimming pool, spa, or other water feature that is operated on a seasonal basis.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-104](#), [50-53-105](#), [50-53-107](#), [50-53-108](#), [50-53-209](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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**37.115.2003 VALIDATION OF LICENSE**

- (1) If a local board of health has entered into a cooperative agreement with the department to conduct its own inspections and enforcement activities, a license issued by the department is not valid until it is signed by the local health officer of the jurisdiction in which the swimming pool, spa, or other water feature is located.
- (2) Within 15 days of receiving the license from the department, the local health officer shall validate or refuse to validate the license.
- (3) A local health officer may refuse to validate a license if it has not met the requirements of Title 50, chapter 53, MCA, or these rules.
- (4) If a local health officer refuses to validate a license, the officer shall notify the license applicant and the department within five days of the officer's decision. The notice must state the grounds for the refusal.
- (5) The license applicant may appeal a decision by a local health officer to refuse to validate the license to the local board of health within 30 days after the officer's refusal or within 30 days after the period for the officer's decision has expired, whichever is first.
- (6) A license applicant who has filed a notice of appeal with the local board of health is entitled to a hearing before that board to determine the applicant's eligibility for the license. The hearing shall be conducted as a contested case hearing under the Montana Administrative Procedure Act.
- (7) If the local board of health determines that the applicant is entitled to a validated license, the presiding officer of the board shall validate the license by signing the license.

(8) Validation is not required if there is no cooperative agreement between the department and the local board of health providing for the local board of health to act as agents of the department to conduct inspections and to enforce applicable statutes and rules relating to swimming pools, spas, and other water features.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-206](#), [50-53-207](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.2101](#) NOTICE OF VIOLATION**

(1) When an inspector has determined that a violation of Title 50, chapter 53, MCA, or these rules has occurred, the inspector may provide a written notice of violation to the on-site operator of the facility which:

- (a) identifies the factual basis for the alleged violation;
- (b) identifies any specific statute or administrative rule alleged to have been violated;
- (c) notifies the licensee or license applicant if the department is ordering the suspension of the license or the emergency closure of the swimming pool, spa, or other water feature;
- (d) notifies the licensee or license applicant or operator of any corrective action the department is ordering as necessary to remedy any violation identified in the notice;
- (e) notifies the licensee or license applicant of the right to submit a corrective action plan within ten days; and
- (f) notifies the licensee or license applicant of the right to request a fair hearing to dispute any suspension or cancellation of the license or emergency closure of the swimming pool, spa, or other water feature or to dispute any corrective action ordered by the department.

(2) In a notice of violation, the department may also order the license applicant or licensee to appear before the department within a time specified by the department to show cause why the department should not deny, suspend, or cancel the license or otherwise order compliance with Title 50, chapter 53, MCA, and these rules.

(3) The suspension of a license or order of emergency closure or any order by the department for corrective action becomes final ten days after it is served upon the licensee or license applicant, unless the licensee or license applicant:

- (a) requests a fair hearing; or
- (b) submits a corrective action plan that meets the requirement of [50-53-213](#), MCA, and ARM [37.115.2103](#).

(4) The written notice of violation may be provided by hand delivery to the licensee, the license applicant, or the facility's on-site operator, by facsimile, or by other electronic means, including, but not limited to, a scan of the notice form sent as an attachment to e-mail. The written notice of violation shall also be mailed by U.S. mail, postage prepaid, to the licensee or the license applicant at the address provided in the license application. The service of the notice is complete upon mailing.

(5) The department may amend its notice of violation at any time up to seven working days prior to any hearing requested as a result of the notice of violation. A licensee, license applicant, or operator may request a reasonable delay in any hearing proceedings if the notice of violation is amended within 30 days of the date set for hearing and the nature of the amendment means that the licensee, license applicant, or operator reasonably needs additional time to prepare for the hearing.

**History:** [50-53-103](#), MCA; **IMP**, [2-4-631](#); [50-53-212](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **AMD**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.2102](#) IMMEDIATE SUSPENSION OF LICENSE; EMERGENCY CLOSURE OF POOL, SPA, OR OTHER WATER FEATURE**

This rule has been repealed.

**History:** [50-53-103](#), MCA; **IMP**, [2-4-631](#), [50-53-201](#), [50-53-211](#), [50-53-212](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10; **REP**, 2011 MAR p. 2657, Eff. 12/9/11.

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### **[37.115.2103](#) CORRECTIVE ACTION PLAN**

(1) An operator of a swimming pool, spa, or other water feature may submit a plan of correction to the department within ten days of receiving any notice of violation.

(2) Submission of a plan of correction will bar any further administrative enforcement action by the department against the operator if:

- (a) the department approves the plan in writing, including the time proposed by the operator to correct the violation; and
- (b) the operator complies with the corrective action plan within the time period prescribed by the department.

**History:** [50-53-103](#), MCA; **IMP**, [50-53-212](#), [50-53-213](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.2104](#) REOPENING AFTER EMERGENCY CLOSURE**

(1) If the license of a swimming pool, spa, or other water feature was suspended and an emergency closure ordered, the department may require an in-person inspection of the facility to verify that the problem has been corrected. Alternatively, depending upon the circumstances and the nature of the violation, the department may choose to accept other forms of documentation to support reopening the pool, including, but not limited to, such things as faxes or scans of water quality test results, test results provided to the department by an independent laboratory, photographs, or video footage.

(2) If the department determines that an in-person inspection is needed to verify that the problem has been corrected, that shall occur within five working days after the department has received written notification from the licensee, license applicant or facility operator that the problem has been resolved. The department may request that a local health department that has entered into a cooperative agreement with the department for inspection of pools have one of its qualified inspectors conduct the in-person inspection.

**History:** [50-53-103](#), MCA; [IMP, 50-53-104](#), [50-53-212](#), [50-53-213](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.2105](#) OTHER ENFORCEMENT ACTIONS, RECOVERY OF COSTS BY THE DEPARTMENT**

(1) The submission of a plan of correction by a licensee, license applicant, or operator of a swimming pool, spa, or other water feature does not bar the department from pursuing any other remedies available in Title 50, chapter 53, MCA, including, but not limited to, seeking:

- (a) criminal misdemeanor prosecution; or
- (b) civil penalties; or
- (c) injunctive relief; or
- (d) an order for summary abatement of a public nuisance.

(2) Where the department pursues civil or criminal action to enforce Title 50, chapter 53, MCA, or ARM Title 37, chapter 115, subchapters 1 through 22 or any condition of a license or to assess civil penalties, the court may assess the licensee, the license applicant, or the operator the costs of investigation and the costs of the criminal or civil action, including reasonable attorney fees.

**History:** [50-53-103](#), MCA; [IMP, 50-53-104](#), [50-53-109](#), [50-53-216](#), [50-53-217](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.2201](#) REQUEST FOR FAIR HEARING**

(1) A licensee or license applicant may request a fair hearing to contest any denial, suspension, or cancellation of a license or any corrective action ordered by the department.

(2) A request for fair hearing must be in writing and must specify the alleged mistakes in facts or law relied upon by the department.

(3) Hearing requests must be mailed or delivered to the department's Office of Fair Hearings, P.O. Box 202953, 2401 Colonial Drive, 3rd Floor, Helena, MT 59620-2953.

(4) A request for fair hearing to contest an order for suspension or cancellation of a license or to contest corrective action ordered by the department must be received by the Office of Fair Hearings within ten days after the department serves the written notice of violation upon the licensee, license applicant, or on-site operator of the swimming pool, spa, or other water feature.

(5) Fair hearings are held pursuant to the contested case procedures of the Montana Administrative Procedure Act (MAPA) and the applicable provisions of ARM Title 37, chapter 5, subchapter 3.

(6) Hearing shall be held in Helena, Montana, unless the department agrees that it is necessary for the hearing examiner to conduct an on-site visit of the facility in which the swimming pool, spa, or other water feature is located. In that case, the hearing or a portion of the hearing may be held in a location convenient to where the swimming pool, spa, or other water feature is located.

**History:** [50-53-103](#), MCA; [IMP, 2-4-631](#), [50-53-213](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### **[37.115.2203](#) SHOW CAUSE HEARING**

(1) The department may set a show cause hearing requiring a licensee, license applicant, or operator to appear and show cause why the department should not deny, suspend, or cancel a license or otherwise require compliance with Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, subchapters 1 through 22.

(2) Show cause hearings are held pursuant to the contested case procedures of the Montana Administrative Act and the applicable provisions of ARM Title 37, chapter 5, subchapter 3.

(3) The department may initiate a show cause hearing by including in a notice of violation an order for the licensee, license applicant, or operator to appear before the department within ten days to show cause why the license should not be denied, suspended, cancelled, or why other compliance with Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, subchapters 1 through 22 should not be ordered.

(4) The notice of violation containing the show cause order may be hand delivered to the licensee, license applicant, or operator, but shall also be served by U.S. mail, postage prepaid, by internal departmental mail, or by facsimile, or other electronic means

followed by a hard copy. Service of the request for a show cause hearing is complete upon mailing or electronic delivery.

(5) Hearing shall be held in Helena, Montana, unless the department agrees that it is necessary for the hearing examiner to conduct an on-site visit of the facility in which the swimming pool, spa, or other water feature is located. In that case, the hearing or a portion of the hearing may be held in a location convenient to where the swimming pool, spa, or other water feature is located.

**History:** [50-53-103](#), MCA; [IMP](#), [2-4-631](#), [50-53-212](#), [50-53-213](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.2205](#) PREHEARING PROCEDURES

(1) Upon receipt of a request for fair hearing or a notice of violation containing an order to appear and show cause, the Office of Fair Hearings shall appoint a hearing examiner.

(2) The hearing examiner shall set a scheduling conference to be held by telephone within ten days after the request for hearing or the notice of violation containing the order to show cause is received by the Office of Fair Hearing. The licensee, license applicant, or operator of the swimming pool, spa, or other water feature may agree to set the scheduling conference at a later date.

(3) At the telephone scheduling conference, the hearing examiner shall:

- (a) set the date, time, and physical location for the hearing;
- (b) set deadlines for any discovery requested by the parties;
- (c) set deadlines for exchange of witness lists and exchange of exhibits; and
- (d) set a date by which any prehearing order required by the hearing examiner shall be filed by the parties.

(4) Following the scheduling conference, the hearing examiner shall issue a written order that:

- (a) sets out its rulings on the issues listed in (3);
- (b) notifies the parties that the proceedings are a contested case proceeding under the Montana Administrative Procedure Act;
- (c) notifies the parties that formal proceedings may be waived under [2-4-603](#), MCA;
- (d) provides the legal authority and jurisdiction of the hearing examiner;
- (e) a reference to the particular sections of the statutes and rules involved;
- (f) a short plain statement of the matters asserted; and
- (g) a statement that a formal proceeding may be waived pursuant to [2-4-603](#), MCA.

(5) The hearing examiner may require the parties to submit a prehearing order signed by the representatives or both parties which includes such things as: the parties' contentions, any agreed facts or other stipulations, the issues of fact and law, witnesses, expert witnesses, exhibits, and any relevant statutes and rules, and the anticipated length of hearing. The parties may use electronic signatures to sign and submit the prehearing order.

(6) If a swimming pool, spa, or other water feature has been closed, the hearing examiner shall expedite the proceedings to the extent possible while still providing the parties reasonable time for discovery.

**History:** [50-53-103](#), MCA; [IMP](#), [2-4-601](#), [2-4-602](#), [2-4-631](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### [37.115.2207](#) HEARING, ORDER OF PRESENTATION, BURDENS OF PROOF

(1) In a hearing concerning adverse action or proposed adverse action against an existing license, the department shall present its case-in-chief first during the hearing to establish the background facts and the basis for the action or proposed action. The department shall have the burden to establish by a preponderance of the evidence that there is a reasonable basis for the department to take the adverse action. The licensee shall then have the opportunity to present its case-in-chief. The licensee has the burden of persuasion to establish that there is not a reasonable basis for the adverse action or proposed adverse action against the existing license. The department shall have the opportunity to present rebuttal evidence.

(2) In a hearing concerning the denial or proposed denial of a license, the department shall open the hearing by providing evidence to establish the background facts and any reasons relied upon by the department for the denial of the license or the proposed denial of the license. The license applicant or operator shall then present its case-in-chief. The license applicant has the burden of proof to establish by a preponderance of the evidence that the denial of the license has no reasonable basis and that all requirements of Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, subchapters 1 through 22 have been met and the license applicant is therefore entitled to the license. The department shall then have an opportunity to present its case-in-chief. The department has the burden of persuasion to show that there is some reasonable basis for denial of the license or that the license applicant has not met all requirements of Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, subchapters 1 through 22. The license applicant or operator shall have the opportunity to present rebuttal evidence.

(3) If the department has established by a preponderance of the evidence that there have been violations of Title 50, chapter 53, MCA, or ARM Title 37, chapter 115, subchapters 1 through 22, the department's exercise of discretion in deciding the level of negative licensing action to take must be upheld unless the hearing examiner finds that in light of all the circumstances, the penalty the department has imposed or proposed to impose is so disproportionate or excessive as to be arbitrary and capricious.

**History:** [50-53-103](#), MCA; [IMP](#), [2-4-611](#), [2-4-612](#), [2-4-614](#), [2-4-631](#), [26-1-401](#), MCA; [NEW](#), 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.2207 HEARING, ORDER OF PRESENTATION, BURDENS OF PROOF**

(1) In a hearing concerning adverse action or proposed adverse action against an existing license, the department shall present its case-in-chief first during the hearing to establish the background facts and the basis for the action or proposed action. The department shall have the burden to establish by a preponderance of the evidence that there is a reasonable basis for the department to take the adverse action. The licensee shall then have the opportunity to present its case-in-chief. The licensee has the burden of persuasion to establish that there is not a reasonable basis for the adverse action or proposed adverse action against the existing license. The department shall have the opportunity to present rebuttal evidence.

(2) In a hearing concerning the denial or proposed denial of a license, the department shall open the hearing by providing evidence to establish the background facts and any reasons relied upon by the department for the denial of the license or the proposed denial of the license. The license applicant or operator shall then present its case-in-chief. The license applicant has the burden of proof to establish by a preponderance of the evidence that the denial of the license has no reasonable basis and that all requirements of Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, subchapters 1 through 22 have been met and the license applicant is therefore entitled to the license. The department shall then have an opportunity to present its case-in-chief. The department has the burden of persuasion to show that there is some reasonable basis for denial of the license or that the license applicant has not met all requirements of Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, subchapters 1 through 22. The license applicant or operator shall have the opportunity to present rebuttal evidence.

(3) If the department has established by a preponderance of the evidence that there have been violations of Title 50, chapter 53, MCA, or ARM Title 37, chapter 115, subchapters 1 through 22, the department's exercise of discretion in deciding the level of negative licensing action to take must be upheld unless the hearing examiner finds that in light of all the circumstances, the penalty the department has imposed or proposed to impose is so disproportionate or excessive as to be arbitrary and capricious.

**History:** [50-53-103](#), MCA; **IMP**, [2-4-611](#), [2-4-612](#), [2-4-614](#), [2-4-631](#), [26-1-401](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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### **37.115.2209 LIMITS ON CONSIDERATION OF PRIOR VIOLATIONS**

(1) Except as provided in (2) through (4), the hearing examiner may not consider any prior violations that were included on a notice of violation delivered to the licensee, license applicant, or operator of a swimming pool, spa, or other water feature if:

(a) satisfactory corrective action was taken and accepted by the department; or

(b) the licensee, license applicant, or operator requested a fair hearing to challenge the notice of violation, the hearing examiner issued a dispositive order that denied all of the department's claims against the licensee and that order was not appealed or it was upheld after any appeal.

(2) The hearing examiner may consider any history of corrective action that was taken in response to a notice of violation and that was accepted by the department only for the limited purpose of determining whether:

(a) the history of past violations taken together with the current violations supports a penalty as severe as the level of adverse action imposed by or requested by the department; or

(b) the department's imposition of the penalty or proposed penalty is so severe as to be arbitrary and capricious.

(3) In considering any prior violations by the licensee for purposes of (2), any prior violation cited at the pool, spa, or other water feature is presumed admitted unless it was timely contested.

(4) In considering any such prior violations, the hearing examiner shall weigh the frequency and the seriousness of the prior violations and the willingness and ability the licensee has demonstrated in the past to take corrective action that prevented recurrence of violations.

**History:** [50-53-103](#), MCA; **IMP**, [2-4-612](#), [26-1-103](#), [26-1-501](#), [26-1-502](#), [26-1-602](#), [26-1-605](#), [26-1-606](#), [26-1-623](#), MCA; **NEW**, 2010 MAR p. 1197, Eff. 1/15/10.

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### **37.115.2211 RECORD, TRANSCRIPT, COSTS OF TRANSCRIPTION**

(1) The hearing examiner shall maintain the record as provided in [2-4-214](#), MCA, including all pleadings, all evidence submitted, all prehearing rulings, and either an audio recorded or stenographic transcription of the hearing.

(2) A party who requests that a court reporter attend the hearing to provide a record must pay the costs of the court reporter's time spent at the hearing. If more than one party requests a court reporter, any fee for the court reporter's time spent at hearing shall be split among the requesting parties.

(3) The stenographic record of oral proceedings or any part of the stenographic record must be transcribed on request of any party.

(4) The cost of transcription of any portion of the record, whether transcribed from an audio recording or from a court reporter's electronic or other notes, must be paid by the party requesting that portion of the record. If both parties request copies of a transcript, the transcription costs, including the costs of a transcript to be provided to the hearing examiner or to a court on judicial review, will be split between the parties and each party shall pay for its own copy of the transcript.

(5) The court reporter shall submit an invoice with the transcript when it is furnished. The court reporter may withhold delivery of the transcript until the transcription fee is paid or satisfactory arrangements have been made for payment of the transcript.

**History:** [50-53-103](#), MCA; **IMP**, [2-4-614](#), [3-5-604](#), MCA; **NEW**, 2010 MAR p. 80, Eff. 1/15/10.

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