

**TITLE 7           HEALTH**  
**CHAPTER 18   SWIMMING POOLS**  
**PART 5           PUBLIC SWIMMING POOLS, SPAS AND BATHS: FEES**

**7.18.5.1           ISSUING AGENCY:** New Mexico Environmental Improvement Board.  
[7.18.5.1 NMAC - Rp, 7.18.5.1 NMAC, 07/30/08]

**7.18.5.2           SCOPE:** Owners and operators of public swimming pools, public spas, public baths, or other public bathing attractions.  
[7.18.5.2 NMAC - Rp, 7.18.5.2 NMAC, 07/30/08]

**7.18.5.3           STATUTORY AUTHORITY:** NMSA 1978, Sections 74-1-1 through 74-1-16.  
[7.18.5.3 NMAC - Rp, 7.18.5.3 NMAC, 07/30/08]

**7.18.5.4           DURATION:** Permanent.  
[7.18.5.4 NMAC - Rp, 7.18.5.4 NMAC, 07/30/08]

**7.18.5.5           EFFECTIVE DATE:** 07/30/08, unless a later date is cited at the end of a section.  
[7.18.5.5 NMAC - Rp, 7.18.5.5 NMAC, 07/30/08]

**7.18.5.6           OBJECTIVE:** To establish fees for the administration of rules and standards regarding the inspection, enforcement, training, review of plans, and other appropriate program components for public swimming pools, public spas, public baths and other public bathing attractions as specified in 7.18.2 NMAC, Public Swimming Pools, Spas and Baths: General Provisions, 7.18.3 NMAC, Public Swimming Pools, Spas and Baths: Design and Construction, and 7.18.4 NMAC, Public Swimming Pools, Spas and Baths: Maintenance and Operation.  
[7.18.5.6 NMAC - Rp, 7.18.5.6 NMAC, 07/30/08]

**7.18.5.7           DEFINITIONS:** Unless otherwise defined in this rule, the words and phrases used in this rule have the same meanings as in Section 7.18.2.7 NMAC, Public Swimming Pools, Spas and Baths: General Provisions.  
[7.18.5.7 NMAC - Rp, 7.18.5.7 NMAC, 07/30/08]

**7.18.5.8           ADOPTION BY REFERENCE:** Outside standards, listings, and publications referenced in this rule are part of this rule.  
[7.18.5.8 NMAC - Rp, 7.18.5.8 NMAC, 07/30/08]

**7.18.5.9           ENFORCEMENT AUTHORITY:**  
**A.** Private pools shall not be subject to the provisions of this rule or to 7.18.2 through 7.18.5 NMAC.  
**B.** Department representatives shall be responsible for the enforcement of this rule.  
[7.18.5.9 NMAC - Rp, 7.18.5.9 NMAC, 07/30/08]

**7.18.5.10          CONSTRUCTION PERMIT FEES:**  
**A.** Permit fees for new construction, remodeling, or renovation issued pursuant to Section 7.18.2.10 NMAC, Construction Permits, shall be the following:  
    **(1)** for a class A pool, class B pool, or spa pool, the fee shall be \$150.00;  
    **(2)** for multiple class A or class B pools or spa pools located at the same site, the fee shall be \$150.00 for each class A or class B pool or spa pool;  
    **(3)** for class E pools, public baths or spray pads, the fee shall be \$125.00 for each pool;  
    **(4)** for a class C pool, the fee shall be \$150.00; and  
    **(5)** for multiple class C pools located at the same site, the fee shall be \$150.00 for each special-use pool.  
**B.** All applicable fees shall be paid at the time the construction permit application is submitted to the department.  
**C.** All fees shall be remitted to the department by check or money order made payable to the “water recreation facilities fund.”

**D.** Any check returned for non-payment for any reason shall result in cancellation of the construction permit.

**E.** All fees are non-refundable.  
[7.18.5.10 NMAC - Rp, 7.18.5.10 NMAC, 07/30/08]

**7.18.5.11 OPERATING PERMIT FEES:**

- A.** Operating permit fees issued pursuant to Section 7.18.2.12 NMAC, Operating Permits, shall be:
- (1) for all class A pools and spas, the fee shall be \$150.00 for each pool per year;
  - (2) for class B pools, the fee for each pool shall be:
    - (a) up to 600 square feet of pool surface area, \$100.00 per year;
    - (b) from 601 square feet to 1000 square feet of pool surface area, \$125.00 per year;
    - (c) from 1001 square feet of pool surface area and greater, \$150.00 per year;
  - (3) for all public wading pools, public baths or spray pads, the fee shall be \$100.00 for each pool per year; and
  - (4) for all class C pools, the fee shall be \$150.00 for each pool per year.
- B.** Payment of fees.
- (1) An operating permit fee shall be assessed for each separate public pool at a facility or site.
  - (2) Fees are payable at the time the annual operating permit is issued by the department. Annual operating permits will not be issued until the department receives all appropriate fees.
  - (3) All fees shall be remitted to the department by check or money order made payable to the “water recreation facilities fund”.
  - (4) Non-payment of all appropriate fees, including the return of any check for non-payment for any reason, shall result in cancellation of the operating permit.
  - (5) All fees are non-refundable.

[7.18.5.11 NMAC - Rp, 7.18.5.11 NMAC, 07/30/08]

**7.18.5.12 RE-INSPECTION FEE:** If a site inspection results in the issuance of a written notice of non-approval or suspension, the department may assess a re-inspection fee of \$50.00 to re-inspect that public swimming pool. The re-inspection fee shall be remitted to the department prior to a subsequent re-inspection being conducted.  
[7.18.5.12 NMAC - Rp, 7.18.5.12 NMAC, 07/30/08]

**7.18.5.13 VARIANCE FEE:** If a variance is requested pursuant to Section 7.18.2.23 NMAC, Variance, an application fee of \$50.00 shall be remitted by the applicant at the time the variance application is submitted to the department. The fee is non-refundable.  
[7.18.5.13 NMAC - Rp, 7.18.5.13 NMAC, 07/30/08]

**7.18.5.14 RIGHT OF ENTRY:**

- A.** Upon presentation of credentials, department representatives may enter any premises where a public pool is located or where records required by the public swimming pool rules are located during the public pool’s operating hours.
- B.** When entry is denied by the property owner, the department may seek a district court order to:
- (1) have a right of entry to, upon, or through any premises where a public pool is located;
  - (2) have a right of entry on any premises where any records required by the public swimming pool rules or by permit condition are kept;
  - (3) have access to and copy any records that the public swimming pool rules or a permit requires the facility to maintain;
  - (4) inspect any premises or equipment to determine compliance with the public swimming pool rules or any permit condition; and
  - (5) obtain any sample(s) required to determine compliance with the public swimming pool rules or any permit condition.

[7.18.5.14 NMAC - Rp, 7.18.5.14 NMAC, 07/30/08]

**7.18.5.15 to 7.18.5.50 [RESERVED]**

**7.18.5.51 CONSTRUCTION:** This part shall be liberally construed to carry out its purpose.  
[7.18.5.51 NMAC - Rp, 7.18.5.51 NMAC, 07/30/08]

**7.18.5.52 SEVERABILITY:** If any provision or application of this part is held invalid, the remainder of this part, or its application to other situations or persons, shall not be affected.  
[7.18.5.52 NMAC - Rp, 7.18.5.52 NMAC, 07/30/08]

**7.18.5.53 REFERENCES IN OTHER REGULATIONS:** Any reference to the public swimming pool regulations or any prior version of the public swimming pool regulations in any other rule shall be construed as a reference to this rule. References to the “public swimming pool rules” in this part refer to all provisions contained in 7.18.2 through 7.18.5 NMAC.  
[7.18.5.53 NMAC - Rp, 7.18.5.53 NMAC, 07/30/08]

**7.18.5.54 SAVINGS CLAUSE:** Repeal or supersession of prior versions of this part or the swimming pool rules shall not affect any administrative or judicial action initiated under those prior versions.  
[7.18.5.54 NMAC - Rp, 7.18.5.54 NMAC, 07/30/08]

**7.18.5.55 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with the swimming pool rules or this part does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations.  
[7.18.5.55 NMAC - Rp, 7.18.5.55 NMAC, 07/30/08]

**7.18.5.56 PENALTY:** Any person who violates any provision of this rule shall be subject to the penalty provisions in NMSA 1978, Section 74-1-10 of the Environmental Improvement Act, in addition to any other penalties provided for in the public swimming pool rules.  
[7.18.5.56 NMAC - Rp, 7.18.5.56 NMAC, 07/30/08]

**7.18.5.57 LIMITATION OF DEFENSE:** The existence of a valid permit for the installation, modification or operation of a pool shall not constitute a defense to a violation of any section of this regulation, except the requirement for obtaining a permit.  
[7.18.5.57 NMAC - Rp, 7.18.5.57 NMAC, 07/30/08]

#### **HISTORY OF 7.18.5 NMAC:**

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

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

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

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

**History of Repealed Material:** 7 NMAC 18.1, Public Swimming Pools and Public Baths (filed 10/27/1995) repealed 03/30/05.

7.18.5 NMAC, Public Swimming Pools, Spas and Baths: Fees (filed 2/09/05), repealed 07/30/08.

#### **Other History:**

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

Portions of 7 NMAC 18.1, Public Swimming Pools and Public Baths (filed 10/27/1995) was replaced by 7.18.5 NMAC, Public Swimming Pools, Spas and Baths: Fees, effective 03/30/05.

7.18.5 NMAC, Public Swimming Pools, Spas and Baths: Fees (filed 2/09/05), was replaced by 7.18.5 NMAC, Public Swimming Pools, Spas and Baths: Fees, effective 07/30/08.