

10-148 Chapter 33

Rules for Family Child Care Providers

Rev 6/2007

Section I. DEFINITIONS

K-1 “Lifeguard” is a water safety attendant who has a current certificate issued by a lifeguard certifying authority recognized by the Department.

U. **“Pool”** means any basin, chamber or tank constructed of impervious material, located either indoors or outdoors containing an artificial body of water for swimming or recreational bathing and having a depth of more than twenty-four inches (24”) at any point.

U-1 **“Swimming Pool”** means a pool with a depth of more than twenty-four inches (24”) at any point.

V. **“Toddler”** means children ages thirteen (13) months through thirty (30) months.

W. **“Volunteer”** means a person who helps or provides service in a Family Child Care, without pay or other compensation.

X. **“Wading pool”** means a pool with a maximum water depth of twenty-four inches (24”).

Y. **“Waiver”** means written permission from the Commissioner or designee to modify a provision of rules that is not mandated by statute.

Z. **“Water safety attendant”** is a person trained in rescue techniques whose job is to watch over swimmers ~~at a beach or in a wading pool, or a swimming pool, or off-site swimming and wading destinations and save those in danger of drowning.~~ As required by these rules, appropriately trained water safety attendants include a lifeguard; a person with valid CPR and first aid certificates; and a person who has completed a Department-approved basic water safety and rescue training in non-swimming rescue techniques.

Section V. HOME OPERATION

A. Procedures

- 7. Notification for physical plant changes.** The licensee must provide written notification to the Department for any changes to the heating system, any structural alterations or any plans to use existing space in the family child care that have not been inspected and approved. This includes any physical or structural changes in the building(s) or on the grounds such as but not limited to remodeling, renovations, or installation of a swimming pool or wading pool.

B. Parent involvement

10-148 Chapter 33

Rules for Family Child Care Providers

Rev 6/2007

4. **Responsibility to advise regarding high risk activities.** The provider must advise a child's parent or legal guardian prior to allowing the child to participate in any high risk activity, such as swimming, horseback riding or trampoline. The provider must obtain written authorization from the parent or guardian for the child to participate in any such activity. The statement must describe all types of high risk activities offered, and the authorization must be updated at least annually and shall list the child's name, type of activity, location of activity, parent's signature and date. For swimming or wading activities, the statement must describe the child's swimming ability.

Section VII. CHILD'S RECORD

- A. A record shall be completed at the time of admission and maintained by the Family Child Care provider on each child in care and shall include the following:
 13. A record of injuries sustained while in care of the Family Child Care, significant changes in appearance and/or hygiene, or significant changes in behavior (such as: increased aggression, withdrawal, sexual acting out, and/or prolonged tantrums);
 14. Special needs, if any; and
 15. Written permission for participation in swimming or wading activities from each child's parent(s) or guardian(s) if swimming or wading is provided.

Section X. MATERIALS, EQUIPMENT AND ACTIVITIES

E. Swimming and wading activities

1. **Policies regarding swimming and wading activities and safety procedures.** The family child care provider must develop policies and procedures regarding swimming and wading activities. Policies and procedures must include all swimming or wading activities that take place on the family child care premises and swimming or wading activities that take place away from the family child care premises, e.g., at a public swimming pool or beach.
2. **Emergency Plan.** The family child care provider must include a written emergency plan related to any swimming or wading activities, regardless of where they are conducted. This plan must be available to all staff. The plan must cover procedures for medical emergencies, chemical emergencies and severe weather.
3. **Emergency procedures.** For family child care providers with swimming pools on the premises, staff must be familiar with emergency procedures, the use of safety equipment and emergency contacts. Children must be reminded of the emergency procedures regularly.

10-148 Chapter 33

Rules for Family Child Care Providers

Rev 6/2007

For family child care providers with pools on the premises, swimming pool emergency drills must be conducted at least once a month in any month during which the pool is used. These drills must be conducted according to policies and procedures that are posted in the swimming area. The provider must keep a written record of the type, date, time and duration of the training and drills.

4. **Pool safety rules.** For family child care providers with pools on the premises, legible safety rules for the use of swimming pools must be posted in a conspicuous location, and must be read and reviewed weekly by each staff member responsible for the supervision of children.
5. **Basic water safety instruction for children.** ~~For all swimming or wading activities, regardless of where they are conducted, children must participate in basic water safety instruction appropriate to their ages and developmental levels. Before initially entering the pool, all children must be instructed on all water safety measures.~~
6. **Safety checklist.** For family child care providers with swimming pools on the premises, the provider must complete a checklist on any day on which a pool activity occurs. A checklist will be supplied by the Department, and must be signed by the individual responsible for swimming or wading activities on that day.
7. **Water safety attendant on duty.** The family child care provider must have an appropriately trained water safety attendant, as required by these rules, present at all times during swim instruction or other swimming or wading activity.
 - a) ~~For s~~ Swimming pools that are over more than four (4) feet deep at any point shall comply with the following:
 - i. For pools that have a width of sixteen feet (16') or less, a water safety attendant must be on duty. Every three (3) years, the water safety attendant must complete basic water safety and rescue training in non-swimming rescue techniques in a program of instruction approved by the Department. A copy of the current Lifeguard Training Certificate must be on file in the family child care and posted in a conspicuous location in the pool area. If a non-swimming rescue is not feasible in a pool with a width of sixteen feet (16') or less, a lifeguard shall be on duty instead of a water safety attendant.
 - ii. For pools more than sixteen feet (16') wide, a lifeguard must be on duty. A lifeguard must have a current lifeguard certification from the American Red Cross, YMCA or a comparable program of instruction. A copy of the lifeguard's current Lifeguard Training Certificate must be on file with the

10-148 Chapter 33

Rules for Family Child Care Providers

Rev 6/2007

~~in the family child care provider and posted in a conspicuous location in the pool area.~~

- b) For swimming pools that are more than two feet (2') and less than four (4) feet deep at the deepest part, a water safety attendant must be on duty. ~~The~~ water safety attendant must have completed a Department-approved basic water rescue and safety training course in non-swimming water rescue techniques. A copy of the current training certificate must be on file in the family child care ~~and posted in a conspicuous location in the pool area.~~
- c) For wading pools, a water safety attendant must be on duty. ~~The~~ water safety attendant must hold a valid CPR certificate and a valid first aid certificate.
- d) For swimming and wading activities away from the family child care premises, the family child care provider must provide an adequate number of ~~certified lifeguards or~~ water safety attendants, including lifeguards, as required by these rules, if the wading pool, swimming pool, beach, lake or water park or waterfront operator does not.

8. Constant supervision. Staff must directly supervise children at all times. Children must be within sight **and** sound of staff.

9. Staff to child ratios. The staff-to-child ratio must be maintained at all times.

a) If the pool is more than four (4) feet deep at any point, only adults who can swim may be counted in the staff-to-child ratios.

~~b) The required staff must be in the water.~~

e) For swimming pools, ~~lifeguards,~~ water safety attendants, including lifeguards, and swimming instructors do not count toward staff-to-child ratios. ~~Lifeguards and~~ water safety attendants, including lifeguards, must be stationed next to the swimming ~~or wading pool~~. For wading pools, water safety attendants may count toward staff-to-child ratios.

10. Identification of non-swimmers. All non-swimmers must be clearly identified as non-swimmers in a way that is visually and easily recognized by lifeguards, water safety attendants and staff. Commonly used identifiers are specified bathing suits or caps, wristbands or colored zinc-oxide sun block. Personal flotation devices of any kind shall not be used as identifiers.

10-148 Chapter 33

Rules for Family Child Care Providers

Rev 6/2007

11. **Approved flotation devices.** All non-swimmers, when in water over their waists, must be protected by a Coast Guard approved flotation device properly fitted for age and weight, except during swim instruction programs.
12. **Training for Family Child Care Providers.** Providers must take a Department-approved course in basic water safety and rescue ~~before providing pool activities.~~

Section XIII. ENVIRONMENT AND SAFETY

D. Outdoor play area

6. **Safe outdoor play equipment.** Outdoor play equipment must be safely constructed and of a size suitable to the age and needs of all children. Play equipment, including pools, must be adequately spaced apart to prevent injuries.
7. **Sun and shade.** Outdoor play areas shall provide both shade and sun.

H. Swimming Pools

1. **Swimming Pools must be registered.** On-premises swimming pools over twenty-four inches (24") deep at any point ~~facilities~~ must be registered with the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health.
2. **Swimming pool cleanliness.** Swimming or wading pools shall be emptied and cleaned daily or equipped with a filtration and/or treatment system.
 - a. The water in a swimming pool must have sufficient clarity. The bottom must be clearly visible in the deepest part of the pool.
 - b. Any family child care provider that operates a swimming pool over twenty-four inches (24") deep at any point must be in compliance with Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health *Rules Relating to Public Swimming Pools and Spas.*
3. **Swimming pools when not in use.** Swimming or wading pools must be emptied or removed from play areas when not in use or must be otherwise protected by fencing or suitable barriers to prevent children from gaining access without staff approval and supervision.
 - a. All in-ground pools located in areas accessible to the children must be fenced. The fence must be at least four (4) feet in height and secured with a locked gate.

10-148 Chapter 33

Rules for Family Child Care Providers

Rev 6/2007

- b. All above-ground pools must have non-climbable sidewalls that are at least four feet high or must be enclosed with a fence in accordance with subsection 3.a (above) of this Section. When the pool is not in use, steps must be removed from the pool or otherwise protected to prevent unsupervised access.
4. **Emergency telephone.** All pools must have an accessible emergency telephone located in the pool area. The telephone shall be able to dial directly for emergency assistance.

AMENDED emergency rule