

10-148 Chapter 32

Rules for the Licensing of Child Care Facilities

2nd amended emergency rule 8/13/07

Section II. DEFINITIONS

- R-1** “**Lifeguard**” is a water safety attendant who has a current certificate issued by a lifeguard certifying authority recognized by the Department.
- FF** “**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 activity.
- FF-1** “**Swimming Pool**” means a pool with a depth of more than twenty-four inches (24”) at any point.
- GG.** “**Volunteer**” means a person who helps or provides service without compensation in a Child Care Facility .
- HH.** “**Wading pool**” means a pool with a maximum water depth of twenty-four inches (24”).
- II.** “**Water safety attendant**” is a person trained in rescue techniques whose job is to watch over swimmers in a wading pool, a swimming pool, or off-site swimming and wading destinations. 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 course that includes and rescue training in non-swimming rescue techniques.

Section X. ORGANIZATION and ADMINISTRATION

A. Administration

13. **Notification for physical plant changes.** The licensee shall 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 facility that ~~have~~ has 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.

Section X. ORGANIZATION and ADMINISTRATION

B. Responsibility of the facility to parent(s) involvement

6. **Responsibility to advise regarding high risk activities.** The facility 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 facility must obtain written authorization from the parent for the child to participate in any such activity. The statement must describe all types of high risk activities provided and the authorization

10-148 Chapter 32

Rules for the Licensing of Child Care Facilities

2nd amended emergency rule 8/13/07

must be updated at least annually and must 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 XII. RECORDS and REPORTS

A. Child's record. A record shall be completed at the time of admission and maintained by the Child Care Facility on each child in care and shall include:

14. Allergies and other health conditions, if known;
15. Special needs, if any;
16. Written permission for participation in swimming or wading activities from each child's parent(s) or guardian(s) if swimming or wading activities are offered.

Section XVI. PROGRAM DESCRIPTION, SCHEDULE, MATERIALS AND EQUIPMENT

D. Swimming and wading activities

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

10-148 Chapter 32

Rules for the Licensing of Child Care Facilities

2nd amended emergency rule 8/13/07

The facility must keep a written record of the type, date, time and duration of the training and drills.

4. **Pool safety rules.** For facilities with swimming 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.** Before initially entering the water, all children must be instructed on all water safety measures.
6. **Safety checklist.** For facilities with swimming pools on the premises, the facility 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 child care facility 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 activities.
 - a) **More than 4' deep.** Swimming pools that are 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 training certificate must be on file in the facility. If a non-swimming rescue is not feasible in a pool that has 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 copy of the lifeguard's current Lifeguard Training Certificate must be on file in the facility.
 - iii. For pools that are sixteen feet (16') wide or less, if a non-swimming rescue is not feasible, a lifeguard must be on duty.
 - iii. For pools that are sixteen feet (16') wide or less, if a non-swimming rescue is feasible, the water safety attendant must have completed within the past three (3) years a basic water safety course that includes training in non-swimming rescue techniques in a program of instruction approved by the Department. A copy of the current training certificate must be on file in the facility.

10-148 Chapter 32

Rules for the Licensing of Child Care Facilities

2nd amended emergency rule 8/13/07

- b) **More than 2' and less than 4' deep.** 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~~ course that includes training ~~course~~ in non-swimming rescue techniques. A copy of the current training certificate must be on file in the facility.
 - c) **Wading pools.** 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) **Off-site activities.** For swimming and wading activities away from the child care facility premises, the child care facility must provide an adequate number of water safety attendants, including lifeguards, as required by these rules, if the wading pool, swimming pool, beach, lake or water park 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) For swimming pools, water safety attendants, including lifeguards, and swimming instructors do not count toward staff-to-child ratios. Water safety attendants, including lifeguards, must be stationed outside and next to the swimming pool.
 - c) **Exception.** If three (3) or fewer children are in the swimming pool and the water safety attendant is stationed outside and next to the swimming pool, the water safety attendant may count toward the staff-to-child ratio.
 - d) Wading pools. 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 32

Rules for the Licensing of Child Care Facilities

2nd amended emergency rule 8/13/07

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. **Swim instruction program design.** Swim instruction programs must be designed by a water safety instructor currently certified by the American Red Cross or other Department-approved water safety instructor program to ensure that the program is age appropriate and safe, including the use of appropriate flotation devices, if any. Other swimming or wading activities are not required to be planned by a certified swim instructor.
13. **Training for on-site directors.** On-site directors must take a Department-approved course in basic water safety ~~and rescue~~ that includes training in non-swimming rescue techniques.

Section XIX. ENVIRONMENT AND SAFETY

E. Outdoor play area

6. **Safe outdoor play equipment.** Outdoor play equipment shall 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.

H. Swimming Pools

1. **Swimming Pools must be registered.** On-premises swimming pools over twenty-four inches (24") deep at any point must be registered by 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 cleaned and emptied 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 facility 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

10-148 Chapter 32

Rules for the Licensing of Child Care Facilities

2nd amended emergency rule 8/13/07

or suitable barriers to prevent access by children without staff approval, observation 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.
 - b) All above-ground pools must have non-climbable sidewalls that are at least four (4) 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 must be able to dial directly for emergency assistance.

2nd AMENDED emergency rule