

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Pursuant to the authority of 237A.12, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

The purpose of this amendment is to modify the height requirements for fences around swimming pools at child development homes. Many Child Development Homes are unable to find approved pool covers for inflatable pools and therefore, must fence in their pools. Rules currently indicate that fencing must be four feet above the side walls, which often would require 8 foot fencing. Most city ordinances do not allow fencing over six feet. This creates a barrier for child development homes to have pools at their homes that meet rule requirements.

Federal recommendations indicate that pools should be enclosed with a fence that is four to six feet or higher. An effective fence is one that prevents a child from getting over, under, or through it and keeps children from gaining access to the pool. Recommendations as cited in “Caring for Our Children” identify that fencing heights are recommended to be at least 5 feet. Pool Safely.gov indicates that the top of the barrier should be at least 48 inches above the surface measure on the side of the barrier which faces away from the swimming pool.

Any interested person may make written comments on the proposed amendments on or before December 16, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 5th Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by email to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A, 217).

After analysis and review of this rule making, no impact on jobs has been found.

This rule is intended to implement 237A.12.

The following amendments are proposed:

ITEM 1. Amend paragraph **110.5 (1) "r"** as follows:

r. When there is a swimming or wading pool on the premises:

(1) A wading pool shall be drained daily and shall be inaccessible to children when it is not in use.

(2) An aboveground or in-ground-swimming pool that is not fenced shall be covered whenever the pool is not in use. The cover shall meet or exceed the American Society for Testing and Materials-ASTM standards specification intended to reduce the risk of drowning by inhibiting access of children under five years of age to the water. ~~of the American Society for Testing and Materials.~~

(3) An uncovered aboveground swimming pool shall be enclosed with an approved fence that is ~~four feet above the side walls~~ non-climbable and has a minimum height of four feet.

(4) An uncovered in-ground swimming pool shall be enclosed with a fence that is at least four feet high and flush with the ground.

Information on Proposed Rules

Name of Program Specialist Ryan Page	Telephone Number	E-mail Address
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<p>1. Give a brief summary of the rule changes: This rule modification will decrease the height requirement for approved fencing around pools.</p>
<p>2. What is the reason for the Department to request these changes? Many Child Development Homes are unable to find approved pool covers for inflatable pools and therefore, must fence in their pools. Rules currently indicate that fencing must be four feet above the side walls, which often would require 8 foot fencing. Most city ordinances do not allow fencing over six feet. This creates a barrier for child development homes to have pools at their homes that meet rule requirements.</p> <p>Federal recommendations indicate that pools should be enclosed with a fence that is four to six feet or higher. An effective fence is one that prevents a child from getting over, under, or through it and keeps children from gaining access to the pool. Recommendations as cited in Caring for Our Children identify that fencing heights are recommended to be at least 5 feet. Pool Safely.gov indicates that the top of the barrier should be atleast 48 inches above the surface measure on the side of the barrier which faces away from the swimming pool.</p>
<p>3. What will be the effect of the rule adoption? (who, what, when, how)? Those Child Development Homes that wish to have a pool will have an increased ability in meeting administrative rule requirements without being in violation of city ordinances.</p>
<p>4. Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations) No.</p>
<p>5. Will anyone be affected by this rule change? If yes who will be affected and will it be to the person(s) benefit or detriment? Yes. Child Development Home providers will find it easier to be in compliance with administrative rules if they choose to have a pool at their home.</p> <p>DHS compliance workers and consultants will also have an increased ability to work with providers in attaining compliance</p>
<p>6. What are the potential benefits of this rule? Registered Child Development Home providers will have an ability to remain in compliance with health and safety requirements if they choose to have a pool on their property. Through the modification of this rule, providers will be able to safely fence pool areas while remaining in compliance with local ordinances that are often required.</p>
<p>7. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule? There are no known associated costs to the State of Iowa as a result of this rule. Child Development Homes that choose to have a pool on the property may see an initial increased cost to attain required fencing that meets rule requirements. However, the rule modification reduces the footage requirement that is currently in rules.</p>

8. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply? No, however local areas often have their own ordinances that must be followed.
9. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used? There are no other known alternatives.
10. Does this rule contain a waiver provision? If not, why? These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.
11. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee) There is no known impact.

ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 10/16/2014

Agency: Human Services

IAC citation: 441 IAC

Agency contact: Ryan Page

Summary of the rule: This rule change reduces the height requirement of approved fencing around uncovered pools at child development homes.

Fill in this box if the impact meets these criteria:

No fiscal impact to the state.

Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

Fiscal impact cannot be determined.

Brief explanation: This is strictly a policy change in the rules child care providers must meet and has no fiscal impact to the state.

Fill in the form below if the impact does not fit the criteria above:

Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	Year 1 (FY)	Year 2 (FY)
Revenue by each source:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL REVENUE	_____	_____
Expenditures:		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
TOTAL EXPENDITURES	_____	_____
NET IMPACT	_____	_____

_____ This rule is required by state law or federal mandate.
Please identify the state or federal law:

_____ Funding has been provided for the rule change.
Please identify the amount provided and the funding source:

_____ Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:

Fiscal impact to persons affected by the rule:

Child care providers incur the cost to install the required fencing if they choose to have a swimming pool at their residence. However, this rule change reduces the height requirement, so it should cost less.

Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):

None anticipated.

Agency representative preparing estimate: Kathy Blume
 Telephone number: (515) 281-4196