

Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services, Division of Licensing and Regulatory Services, Community Services Programs

CHAPTER NUMBER AND TITLE: 10-148 CMR Chapter 33, Rules for Family Child Care Providers

ADOPTED RULE NUMBER:

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY Emergency Rule. To protect children who swim in lakes and ponds while in the care of a family child care provider certified by Maine, the Department has determined that immediate adoption of this emergency rule is necessary to provide regulatory protection for children to safely participate in swimming and wading activities at lakes and ponds. The Department finds that the swimming and wading activities in lakes and ponds need to be implemented for the health, safety, and well-being of children. This rule implements the emergency enactment of Resolves 2007, ch. 199 mandated by the 123rd Legislature. Enacted pursuant to 5 M.R.S.A. § 8054, a provision of the Administrative Procedures Act, this emergency rule encourages safe physical activity without adding unnecessary and burdensome increased costs to providers. Specifically, this emergency rule: [1] eliminates the lifeguard requirement when family child care providers have off-site swimming activities at lakes and ponds; [2] requires providers to have a written water safety plan for swimming activities at lakes and ponds; [3] requires written parental permission before a child is allowed to participate in swimming activities at lakes and ponds; [4] requires written parental notice that there will be no lifeguard on duty at lakes and ponds during swimming activities; and [5] requires providers to rope off an area of the lake or pond for swimming activities that is no wider than 16 feet across at any point and partitions off a part of the water that is not deeper than 4 feet at any point.

This emergency rule shall remain in effect for no longer than 90 days. In the interim, the Department will implement permanent routine technical rules. The emergency rule is available on the Division of Licensing and Regulatory Services' website <http://www.maine.gov/dhhs/dlrs/rulemaking/emergency-rule/home.html> Call 207 287-9254 to have a paper copy of the rule mailed to you.

EFFECTIVE DATE: Sunday, June 1, 2008

(TO BE FILLED IN BY SECRETARY OF STATE)

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Please approve bottom portion of this form and assign appropriate MFASIS number.

APPROVED FOR PAYMENT _____ DATE: _____

Authorized signature **Catherine M. Cobb, Director**, Division of Licensing and Regulatory Services

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