

Statutory requirements regarding wading pools and swimming pools in family child care homes

Minnesota Statutes, 245A.14

Subd. 10. **Portable wading pools; family day care and group family day care providers.** A portable wading pool as defined in section 144.1222 may not be used by a child at a family day care or group family day care home or at a home at which child care services are provided under section 245A.03, subdivision 2, clause (2), unless the parent or legal guardian of the child has provided written consent. The written consent shall include a statement that the parent or legal guardian has received and read material provided by the Department of Health to the Department of Human Services for distribution to all family day care or group family day care homes and the general public on the human services Internet Web site related to the risk of disease transmission as well as other health risks associated with the use of portable wading pools.

Subd. 11. **Swimming pools; family day care and group family day care providers.** (a) This subdivision governs swimming pools located at family day care or group family day care homes licensed under Minnesota Rules, chapter 9502. This subdivision does not apply to portable wading pools or whirlpools located at family day care or group family day care homes licensed under Minnesota Rules, chapter 9502. For a provider to be eligible to allow a child cared for at the family day care or group family day care home to use the swimming pool located at the home, the provider must not have had a licensing sanction under section 245A.07 or a correction order or conditional license under section 245A.06 relating to the supervision or health and safety of children during the prior 24 months, and must satisfy the following requirements:

- (1) notify the county agency before initial use of the swimming pool and annually, thereafter;
- (2) obtain written consent from a child's parent or legal guardian allowing the child to use the swimming pool and renew the parent or legal guardian's written consent at least annually. The written consent must include a statement that the parent or legal guardian has received and read materials provided by the Department of Health to the Department of Human Services for distribution to all family day care or group family day care homes and the general public on the human services Internet Web site related to the risk of disease transmission as well as other health risks associated with swimming pools. The written consent must also include a statement that the Department of Health, Department of Human Services, and county agency will not monitor or inspect the provider's swimming pool to ensure compliance with the requirements in this subdivision;
- (3) enter into a written contract with a child's parent or legal guardian and renew the written contract annually. The terms of the written contract must specify that the provider agrees to perform all of the requirements in this subdivision;
- (4) attend and successfully complete a swimming pool operator training course once every five years. Acceptable training courses are:
 - (i) the National Swimming Pool Foundation Certified Pool Operator course;
 - (ii) the National Spa and Pool Institute Tech I and Tech II courses (both required); or
 - (iii) the National Recreation and Park Association Aquatic Facility Operator course;
- (5) require a caregiver trained in first aid and adult and child cardiopulmonary resuscitation to supervise and be present at the swimming pool with any children in the pool;
- (6) toilet all potty-trained children before they enter the swimming pool;

**FAMILY CHILD CARE
BEST PRACTICES GUIDE
WADING POOLS**

Because the use of wading pools in family child care settings could facilitate the transmission of infections among children and cause serious illness, the following Best Practices are strongly recommended:

1. Pool should be emptied daily
2. Pool should be routinely cleaned daily (following emptying) with a diluted bleach solution of 1 cup bleach to 1 gallon of water
3. Pool should be emptied and cleaned immediately if a child has a fecal accident in the pool
4. Diaper-aged children should wear tight-fitting plastic pants to help prevent fecal contamination of pool water
5. Provider should exclude any children who have diarrhea from child care
6. Staff and children practice frequent and thorough hand washing to prevent the spread of infectious diseases

For further information regarding the use of portable wading pools and/or swimming pools in connection with family child care programs, please access: www.DHS.State.MN.US/Licensing

**POOL QUESTIONS AND ANSWERS
FAMILY CHILD CARE**

1. Question: Are pools that are more than 24 inches deep (some with pumps and filters, etc) considered a swimming pool instead of a wading pool?
Answer: Yes, if a pool is more than 24 inches deep and cannot be (or is not) manually emptied and removed, then the pool is considered a swimming pool, not a wading pool, and the rules for swimming pools would apply.
2. Question: Can a person other than the provider perform the swimming pool maintenance and take the swimming pool operator course?
Answer: No, the law specifically states that the “provider agrees to perform all of the requirements...” Therefore, the provider needs to perform the swimming pool maintenance and take the swimming pool operator course.
3. Question: Does the swimming pool legislation cover spa pools, hot tubs or whirlpools?
Answer: No. The legislation is specific that it applies to swimming pools and wading pools. The legislation is not intended for spa pools, hot tubs or whirlpools.
4. Question: Does the new pool legislation apply to foster care?
Answer: No, the legislation applies to family child care homes and group family child care homes only.
5. Question: If a provider has a child of child care age, can this child use the swimming pool at the family child care home during child care hours even though the provider has not taken the swimming pool operator course?
Answer: No. This child would NOT be able to use the swimming pool because he/she is counted in the child care count because of their age and also because the provider has not completed the swimming pool operator course.
6. Question: If a provider has a child of child care age, can this child use the swimming pool with his/her other parent during child care hours even though the provider has not taken the pool operator class and doesn't plan to use the pool for child care?
Answer: No. This child would NOT be able to use the swimming pool because any child of child care age in the home is included in the child care count. In this case, the pool may not be used at all during child care hours because the provider has not completed the swimming pool operator course. Even though the child's other parent would be supervising the child, the provider is ultimately responsible for the care of the child.

FACT SHEET
RISKS OF WADING POOLS AT CHILD CARE HOMES

The use of wading pools in home child care settings could facilitate the transmission of infections among children and cause serious disease.

- Guidelines for out-of-home child care programs have been jointly developed by the American Academy of Pediatrics and the American Public Health Association and published by the National Center for Education in Maternal and Child Health. These guidelines state that “small portable wading pools shall not be permitted” because they do not permit adequate control of sanitation and safety and provide a superior means of transmission of infectious diseases.”
- In Minnesota, we are particularly concerned about the potential for the enhanced transmission of *E. coli* O157:H7. This bacteria is passed in stool and is readily transmitted among children when contaminated hands or toys are placed in the mouth or contaminated food or water are consumed. Wading pools can easily become contaminated with stool.
- Infection with *E. coli* O157:H7 is the primary cause of hemolytic uremic syndrome (HUS), the most common cause of kidney failure in children in this country. This syndrome usually involves prolonged hospital stays and is fatal in up to 5% of cases. The Minnesota Department of Health maintains information on infectious diseases. This information can be found at: <http://www.health.state.mn.us/diseases.html>
- Each year several *E. coli* O157:H7 outbreaks are identified in Minnesota in both child care homes and centers. These outbreaks often cause a disruption of parents’ schedules and income for the child care provider because infected children need to be excluded from child care until they are no longer carrying the bacteria, which can take as long as 1-2 months. Several other disease-causing agents, including *Giardia*, *Cryptosporidium*, and *Shigella* are also efficiently transmitted in wading pools. All of these agents can cause severe illness in children and are common in Minnesota. Information about laboratory-confirmed infectious diseases that were reported to the Minnesota Department of Health may be found at: <http://www.health.state.mn.us/diseases.html>
- The transmission of these infections can occur even under the care of the most diligent and thoughtful child care providers as the infections can be spread even with mild symptoms.

Wading Pools Present the Risk of Drowning or Other Submersion Incidents.

- The U.S. Consumer Product Safety Commission warns that young children can drown in small amounts of water, as little as two inches deep. Submersion incidents involving children usually happen in familiar surroundings and can happen quickly, even in the time it takes to answer the phone. In a comprehensive study of drowning and submersion incidents involving children under 5 years old, 77% of the victims had been missing from sight for 5 minutes or less. The Commission notes that toddlers in particular often do something unexpected because their capabilities change daily, and that child drowning is a silent death; there is no splashing to alert anyone that the child is in trouble.

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Dear Parent or Legal Guardian:

The 2002 Minnesota Legislature passed a bill that allows portable wading pools to be used by family and group family child care providers when certain requirements are met.

A portable wading pool is defined as a pool with a maximum depth of 24 inches that is capable of being manually emptied and moved.

These portable wading pools may only be used after:

1. The parent or legal guardian of the child has provided written consent to the license holder; and
2. The written consent includes a statement that the parent or legal guardian has received and read the document written by the Department of Human Services and the Department of Health titled: "Fact Sheet: Risks of Wading Pools at Family Child Care Homes."

Please read the Fact Sheet, and decide whether or not to permit your child(ren) to use a wading pool while under the care of your family child care provider.

If you have questions about the changes regarding wading pools, please contact your local public health department or the Minnesota Department of Health at (651) 201-5414, option 3. If you have questions about child care licensing you should contact your local county Social Services Agency, or you may call the Minnesota Department of Human Services at (651) 296-3971.

After completion, please give this form to your child care provider. Your child care provider will be monitored for compliance with these requirements, and this form will document your decision.

By signing this form, I am acknowledging that I have read the document written by the Department of Human Services and the Department of Health titled: "Fact Sheet: Risks of Wading Pools at Child Care Homes." I have been given the opportunity to talk with my child care provider about the use of a wading pool, and I understand the risks associated with the use of a wading pool by my child(ren) while they receive child care services.

I do consent to my child care provider's use of a wading pool with my child(ren).

I do not consent to my child care provider's use of a wading pool with my child(ren).

Signature of Parent or Legal Guardian Date

Name(s) of child(ren)

Signature of Child Care Provider Date