

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 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 eight-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 high 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 cited in “Caring for Our Children” include a fencing height of at least five feet. The Web site [poolsafely.gov](http://poolsafely.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 amendment 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, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does 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 amendment is intended to implement Iowa Code section 237A.12.

The following amendment is proposed.

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 ~~standards of the American Society for Testing and Materials~~ ASTM International (formerly known as the American Society for Testing and Materials) specification intended to reduce the risk of drowning by inhibiting access to the water by children under five years of age.
- (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.