

Children's Camps, Swimming Pools, Bathing Beaches

Effective date: 7/6/11

**Summary of Express Terms
Subpart 7-2 (Children's Camps), Subpart 6-1 (Swimming Pools), and Subpart 6-2
(Bathing Beaches) of the New York State Sanitary Code**

The proposed code amendments contain the following major provisions:

The summer day camp definition and fee for a children's camp permit have been revised to be consistent with Public Health Law (PHL);

A definition for nonpassive recreational activities with significant risk for injury has been added, as mandated by Chapter 439 of the laws of 2009;

The list of operations exempt from regulation has been expanded to include "pre-college," school, and certain classroom based educational programs;

Course curriculum standards for first aid and cardiopulmonary resuscitation (CPR) certifications have been added and references to American Red Cross (ARC) courses removed;

The first aid course accepted for day camps with minimal physical activity was eliminated;

Camp Aquatic Directors minimum experience, certification, and training requirements have been clarified and improved;

The percent of on-duty 16-year-old lifeguards allowed to supervise the camp's aquatic activities has been increased from 20 percent to 50 percent;

An alternative to the requirement for camps to provide a lifeguard during camp trip swimming activities to lifeguarded facilities has been added;

The number of staff certified in CPR that are required for wilderness swimming activities has been clarified;

Public Health Law (PHL) requirements are incorporated for the use of the State Sex Offender Registry to determine if staff are listed (Article 13-B PHL) and providing meningococcal meningitis information to parents of children at certain overnight camps (PHL Section 2167);

Reflective triangles have been added as an acceptable alternative to flares in camp vehicles used to transport campers and staff;

Certain types of summer camp cabins have been exempted from the Uniform Fire Prevention and Building Code (Uniform Code) requirements for fire extinguishing sprinkler systems and minimum occupant floor area requirements;

Public Health Law reference defining the term “officers” has been corrected;

Course curriculum standards for “Lifeguard Supervision and Management” have been added to Subpart 6-1 and Subpart 6-2 of the SSC.

Pursuant to the authority vested in the Public Health and Health Planning Council by Section 225 of the Public Health Law, subject to the approval by the Commissioner of Health, Subpart 7-2, Subpart 6-1 and Subpart 6-2 of the State Sanitary Code, as contained in Chapter 1 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended as follows, to be effective upon publication of a Notice of Adoption in the State Register.

SUBPART 7-2

Children's Camps

(Statutory Authority: Public Health Law §225)

Subdivision (a) of section 7-2.2 is amended as follows:

(a) Summer day camp shall mean a property consisting of a tract of land and any tents, vehicles, buildings, or other structures that may be pertinent to its use, any part of which may be occupied on a scheduled basis at any time between June 1 and September 15 in any year by children under 16 years of age, under general supervision, [primarily] for the purpose of indoor or outdoor organized group activities, involving two or more activities of which at least one is a nonpassive recreational activity with significant risk of injury, as defined in subdivision 7-2.2(1) of this Subpart, for a period of less than twenty-four hours on any day the property is so occupied, and/or which no provisions are made for overnight occupancy by such children.

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Subdivisions (l), (m), and (n) of section 7-2.2 are added as follows:

(l) Nonpassive recreational activities with significant risk of injury are those that pose a significant risk of traumatic brain injury, injury to neck or spine, bone fractures or dislocations, lacerations requiring treatment to close, second or third degree burns to 5% or more of the body, loss of vision, or death. These may include diving, boating, horseback riding, rock climbing, shooting sports and other activities determined by the State Department of Health based on such characteristics as height, speed, water depth, physical contact with another participant or object, and/or use of equipment associated with the activity.

(m) Acceptable training in first aid shall mean certification in a first aid training program determined by the State Department of Health to provide the knowledge and skills necessary to sustain life from injury and sudden illness, which are likely to occur at children's camps. A training program shall include but not be limited to instruction about traumatic brain injury, injury to the neck or spine, bone fractures and dislocations, lacerations, burns; injury to the eye, and medical emergencies such as allergic reactions, seizures, strokes, shock, cardiac and diabetic emergencies, poisoning and heat related illness. A sufficient time shall be provided to cover all topics. First aid certificates shall be valid as specified by the provider, but shall not exceed three years from the date of course completion.

(n) Acceptable training in cardiopulmonary resuscitation (CPR) shall mean a CPR training program determined by the State Department of Health to provide an adequate

level of knowledge and skills necessary to perform two rescuer CPR skills for all ages (infant, child, and adult). A sufficient time shall be provided to cover all topics. CPR certificates shall be valid as specified by the provider, but shall not exceed one year from the date of course completion.

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Subdivision (a) of section 7-2.3 is amended as follows:

(4) activities at unscheduled or drop-in neighborhood-center settings; single-purpose activity such as athletic events, which are held for the sole purpose of tournament play or competition, and associated training practice, "Special Olympics," little league baseball, Pop Warner football; and recreational activity without a specified time period of attendance required; [and]

(5) college level educational programs provided by schools that are accredited by the Regents of the University of the State of New York;

(6) school districts, Boards of Cooperative Educational Services (BOCES) or nonpublic schools providing instruction to satisfy, enrich, accelerate or improve skills in accordance with New York State education requirements;

(7) day programs conducted for the purpose of classroom educational instruction, including but not limited to traditional academic subjects, religious instruction, and

computer training, that have one or more nonpassive recreational activities with significant risk of injury when such activities are conducted as part of a one hour or less recess period constituting no more than one fifth of the program's daily operation, and which occur on a playground, in a gymnasium, or similar setting; and

[(5)] (8) any operation or use of a tract of land or property determined by the State Commissioner of Health as not being within the intent of, or [regulation] regulated by this Subpart.

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Subdivision (b) of section 7-2.4 is amended as follows:

(b) The permit-issuing official is the State Health Commissioner or his designee and those persons defined as officers in subdivision [2] 4 of [sections] section [1391, 1396 and 1399-b] 1392 of the Public Health Law.

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Subdivision (e) of section 7-2.4 is amended as follows:

(e) Effective until March 31, 2011, the fee for a permit is \$100. Municipal operations and organizations for charitable, philanthropic or religious purposes are exempt from this fee.

Effective April 1, 2011, the fee for a permit is \$200. Municipal operations and organizations for charitable, philanthropic or religious purposes are exempt from this fee.

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Subdivision (e) of section 7-2.5 is REPEALED and a new subdivision (e) is added to read as follows:

(e) Camp aquatics director – A camp aquatics director shall oversee all swimming activities that occur at swimming pools and bathing beaches operated as part of a children’s camp. This person shall supervise lifeguards, progressive swimming instructors, and counselors with bather supervision responsibilities during swimming activities; and implement the camp safety plan. The camp aquatics director shall:

(1) be at least 21 years of age;

(2) have a minimum of:

(i) one season of previous experience as a camp aquatics director at a New York State children’s camp; or

(ii) two seasons of previous experience consisting cumulatively of at least 12 weeks as a children’s camp lifeguard, as specified in subdivision (g) of this section, at a swimming pool or bathing beach which had more than one lifeguard supervising it at a time; or

(iii) at least 18 weeks of previous experience as a lifeguard, as specified in paragraph (g)(2) of this section, at a swimming pool or bathing beach which had more than one lifeguard supervising it at a time;

(3) effective until December 31, 2011 possess current certification;

(i) as a progressive swimming instructor, as defined in subdivision (f) of this section; or
(ii) as a qualified lifeguard, as defined in subdivision (g) of this section, possessing
lifeguard certification specific to the type of bathing facility at the children's camp; or
(iii) in a training course for lifeguard supervision and management that meets the
requirements specified in Part 6 Section 6-1.31(e) or Section 6-2.20(e) of this title.

(4) effective January 1, 2012 have successfully completed a training course in lifeguard
supervision and management that meets the requirements specified in Part 6 Section 6-
1.31(e) or Section 6-2.20(e) of this title;

(5) have annually reviewed and documented the review of the camp's safety plan for
swimming; and

(6) possess a current certificate in an acceptable cardiopulmonary resuscitation (CPR)
training program as defined in subdivision 7-2.2(n) of this Subpart.

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Subparagraph (i) of section 7-2.5(g)(1) is amended as follows:

(i) for a maximum of [20] 50 percent of the required total number of lifeguards on-duty
who may be at least 16 years of age; and

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Subdivision (h) of section 7-2.5 is amended as follows:

(h) Trip leader - A trip leader shall be at least 18 years of age and have participated in at least three camp trips in a similar program activity as a children's camp staff member or have experience and training in the activity which the permit-issuing official has determined to be equivalent to three camp trips. Trip leaders for wilderness, equestrian, boating and similar specialized activities shall be competent in the activity. A trip leader of a camp trip with an itinerary that includes an activity where emergency medical care is not readily available and/or an activity such as wilderness hiking, camping, rock climbing, horseback riding, bicycling, swimming and/or boating, shall possess or be accompanied by staff who possesses a current certificate in an acceptable first aid training program as defined in subdivision 7-2.2(m) of this Subpart [certificate in Responding to Emergencies issued by the ARC or a current certificate in first aid issued by a certifying agency determined by the State Commissioner of Health to provide an adequate level of first aid training], and a current certificate in an acceptable cardiopulmonary resuscitation (CPR) training program as defined in subdivision 7-2.2(n) of this Subpart [certificate, not exceeding one year in duration, in CPR for the Professional Rescuer issued by the ARC, or a current certificate in CPR issued by a certifying agency determined by the State Commissioner of Health to provide an equivalent level of CPR training].

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Subdivision (i) of section 7-2.5 is amended as follows:

(i) Activity leader – An activity leader shall be competent in the activity being conducted. Activity leaders of an activity that includes wilderness hiking, camping, rock climbing,

horseback riding, bicycling, swimming and/or boating shall be at least 18 years of age.

When a camp activity is conducted at a location where the camp staff certified in first aid and CPR in accordance with Subdivision 7-2.8(a) are not readily available, an activity leader shall possess or be accompanied by staff who possesses a current certificate in an acceptable first aid training program as defined in subdivision 7-2.2(m) of this Subpart [certificate in Responding to Emergencies issued by the ARC or a current certificate in first aid issued by a certifying agency determined by the State Commissioner of Health to provide an equivalent level of first aid training], and a current certificate in an acceptable cardiopulmonary resuscitation (CPR) training program as defined in subdivision 7-2.2(n) of this Subpart [certificate, not exceeding one year in duration, in CPR for the Professional Rescuer issued by the ARC, or a current certificate in CPR issued by a certifying agency determined by the State Commissioner of Health to provide an equivalent level of CPR training].

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Section 7-2.5(1) is amended to read as follows:

(1) Records identifying staff qualifications shall be maintained in the camp for inspection by the permit-issuing official or his designated representative. The camp operator shall ascertain whether an employee or volunteer is listed on the New York State Division of Criminal Justice Services (DCJS) Sex Offender Registry prior to the day such employee or volunteer commences work at camp and annually thereafter prior to their arrival at camp. A written record of the employee and volunteer names that were submitted to the

DCJS for checking against the Sex Offender Registry and DCJS's search results shall be kept on file at the site and made available to the permit-issuing official upon request.

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Subparagraph (i) and (ii) of section 7-2.8(a)(1) are REPEALED and new subparagraphs

(i) and (ii) are added to read as follows:

(i) a current certificate in an acceptable first aid training program as defined in subdivision 7-2.2(m) of this Subpart; and

(ii) a current certificate in an acceptable cardiopulmonary resuscitation (CPR) training program as defined in subdivision 7-2.2(n) of this Subpart.

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Clause (a) of subparagraph (ii) of section 7-2.8(a)(2) is amended to read as follows:

(a) one on-site staff member for each 200 campers shall possess a current first aid certificate. [(1)] The first aid certified camp health director or designee may be counted toward meeting this first aid requirement. If only one first aid certified staff member is required, and this person is absent, a similarly certified first aid certified staff member shall be on-site to meet this first aid requirement.

[(2) A current Community First Aid and Safety first aid certificate issued by the ARC or a current certificate in first aid issued by a certifying agency determined by the State Commissioner of Health to provide an adequate level of first aid training may

be substituted for the first aid certificate required in subparagraph (1)(i) of this subdivision when the children's camp's activities do not include aquatics, the camp's programs are limited to minimal physical activity, and emergency medical care and consultation is available in less than five minutes.]

Paragraph (c) of Section 7-2.8 is amended as follows and a new paragraph (2) is added:

(c)(1) A current confidential medical history, including the child's immunization record which shall include immunization dates against diphtheria, haemophilus influenza type b, hepatitis b, measles, mumps, poliomyelitis, rubella, tetanus and varicella (chicken pox), shall be kept on file for every camper and updated annually.

The camper's and staff's family or other responsible person's name, address and telephone to contact during an emergency shall be kept on file.

(2) An overnight camp shall provide parents/guardians of campers attending camp for seven or more consecutive nights with written information about meningococcal meningitis and with a copy of an immunization response form that has been approved by the State Commissioner of Health.

(i) The written information must include:

(a) a description of meningococcal meningitis and means of transmission;

(b) the benefits, risks and effectiveness of immunization; and

(c) the availability and estimated cost of immunization, including an indication of whether or not the camp offers meningococcal meningitis immunization services.

(ii) The immunization response form must be submitted annually, kept on file at camp, document that the parent/guardian has received and reviewed the meningococcal meningitis information and certifies that either:

(a) the camper has been immunized against meningococcal meningitis within the past ten years, or

(b) the parent or guardian understands the risk of meningococcal meningitis and the benefits of immunization, and has decided that the camper will not obtain immunization against meningococcal meningitis.

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Subdivision (c) of Section 7-2.10 is amended as follows:

(c) Every vehicle used for transporting staff or campers shall [bear] have required registration and inspection stickers and be equipped with at least a first-aid kit, tools, fire extinguisher and flares or reflective triangles that are labeled with the Federal DOT symbol or a statement that the device complies with all Federal Motor Vehicle Safety Standards.

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Subparagraph (iv) of section 7-2.11(a)(4) is amended as follows:

(iv) When a camp utilizes a pool, bathing beach or an aquatic amusement park activity where the facility provides aquatic supervisory staff level I, IIa or IIb in accordance with Part 6 of this Title, the camp shall provide one qualified lifeguard, or camp staff who possesses training in children's camp swimming program safety as specified in clause (a) of this subparagraph, for each 75 campers to supervise camper bathing activities and implement the camp safety plan. A camp supplied lifeguard, or a staff possessing training in children's camp swimming program safety, is not required for aquatic amusement park activities that allow only one or two patrons in the water at a time and the activity water depth does not exceed chest deep for non-swimmers.

(a) A training course will be determined to be acceptable if, after a review by the State Health Department, the materials and training program covering those items set forth below are determined to provide camp staff with adequate training to supervise a camp trip swimming activity.

(b) Training course certification shall be valid for the time period specified by the certifying agency, but may not exceed a consecutive three-year period from course completion.

(c) Training course materials shall be submitted for review by the course sponsor and shall include minimum instructor qualifications to demonstrate that instructors possess adequate experience and knowledge in children's camp swimming program safety to effectively communicate the subject matter of this section:

(1) Injury Prevention including Communicating and Enforcing Rules

(2) Bather Surveillance Systems for Children's Camps

(i) Classifying and Identifying Bather Swimming Abilities

(ii) Swimming Area Selection

(iii) Buddy System

(iv) Buddy Board/Accountability Systems

(3) Types of Emergencies and Emergency Action Plans (EAP)

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Paragraph (5) of subdivision (a) of section 7-2.11 is amended as follows:

(5) When wilderness swimming is conducted, each participating camper shall have a signed statement of permission to participate from a parent/guardian, and section 7-2.11(a)(3)(iv) shall be complied with. In addition:

(i) The camp shall provide at least one qualified lifeguard per 25 bathers. [and a] A minimum of two staff members which includes the lifeguard [to supervise the activity who] shall possess a current certificate in an acceptable cardiopulmonary resuscitation (CPR) [certificate] training program as defined in subdivision 7-2.2(n) of this Subpart. [, not exceeding one year in duration, in CPR for the Professional Rescuer issued by the ARC, or a current certificate, not exceeding one year in duration, in CPR issued by a certifying agency determined by the State Commissioner of Health to provide an adequate level of CPR training.]

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Subdivision (b) of Section 7-2.12 is amended as follows:

(b) Requirement for new construction. [All]

(1) Except as otherwise provided in paragraph (2) of this subdivision, all new construction including alterations, enlargements and improvements, shall be in accordance with the Uniform Code and the provisions of the State Environmental Quality Review Act. The building permit and certificate of occupancy as issued by the local code enforcement official should be readily available for review and submission to the permit-issuing official. A written statement signed by a registered architect or professional engineer certifying construction compliance with the Uniform Code [should] shall be submitted to the permit-issuing official prior to occupancy of all new construction. For a summer camp cabin (as that term is defined in paragraph (3) of this subdivision), the written certification of compliance to be submitted to the permit-issuing official shall certify compliance with all applicable Uniform Code requirements other than the automatic sprinkler system requirements specified in subparagraph (i) of paragraph (2) of this subdivision.

(2) A summer camp cabin (as that term is defined in paragraph (3) of this subdivision) shall be exempt from the following Uniform Code requirements:

- (i) the automatic sprinkler system requirements, and
- (ii) the minimum floor area per occupant requirements

(3) For the purposes of this subdivision, the term “summer camp cabin” shall mean a sleeping quarter which:

- (i) is located in a children’s overnight camp;

(ii) has a sleeping capacity of fewer than twenty-five occupants with a total combined sleeping room floor area of 1200 square feet or less for all sleeping rooms;

(iii) is one story;

(iv) is used and occupied only between June 1 and September 14;

(v) has no cooking facilities, no heating systems, and no solid fuel heating or burning systems;

(vi) has only sleeping rooms (including the necessary area for storing occupant belongings) and bathrooms;

(vii) has no interior corridors or separate common area rooms;

(viii) has at least two exits per sleeping room which are remote from each other and which discharge directly to the building's exterior;

(ix) has exit doors that open in the direction of, and are non-locking against egress; and

(x) has smoke alarms in each sleeping room that are interconnected such that the activation of one alarm will activate all of the alarms in the cabin.

An existing structure that is altered, enlarged or otherwise improved shall not be deemed to be a summer camp cabin (and shall not be subject to the exceptions set forth in paragraph (2) of this subdivision) unless such structure, as so altered, enlarged or otherwise improved, satisfies all of the criteria set forth in this paragraph.

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Subdivision (c) of Section 7-2.16 is amended as follows:

(c) In sleeping quarters housing more than four persons, 40 square feet of floor area per [individual] occupant shall be provided, when single beds are provided.

When double-deck bunk beds are provided, 30 square feet of floor area shall be provided for each [individual] occupant. Floor area includes space within the occupied structure to accommodate: the bed, storage for personal belongings, aisles and exitways, and associated assembly space. Space for toilets, lavatories and showers shall not be used to calculate a sleeping quarter's floor area. For structures built prior to 1975, the required minimum floor area for single beds is 36 square feet. Effective July 1, 2011, construction of sleeping quarters not meeting the definition of a summer camp cabin, as defined in section 7-2.12(b)(3) of this Subpart, 50 square feet of floor area per occupant shall be provided in each sleeping room.

SUBPART 6-1

Swimming Pools

(Statutory Authority: Public Health Law §225)

A new subdivision (e) of section 6-1.31 is added to read as follows:

(e) Lifeguard Supervision and Management

(1) No person shall be qualified under this subdivision unless such person:

(i) Possesses current certification issued by a certifying agency determined by the State Department of Health to provide an adequate level of training in lifeguard supervision and management covering those items set forth below. Certification shall be valid for the time period specified by the certifying agency, but may not exceed a consecutive three-year period from course completion.

The training course will be determined to be acceptable if, after a review, all the materials submitted by the program sponsor are determined to be complete and meet the requirements of this section. Instructors shall have sufficient experience and knowledge in lifeguard supervision and management to effectively communicate the subject matter required by this section:

(a) Program Goals and Objectives

(b) Lifeguard and Lifeguard Supervisor Duties and Responsibilities

(c) Injury Prevention and Preventative Lifeguarding

(1) Communication Systems

(2) Patron Surveillance

(i) Victim Recognition

(ii) Effective Scanning

(iii) Lifeguard Positioning and Rotation

(iv) Lifeguard Breaks

(3) Surveillance for Groups

(i) Instruction Programs

(ii) Large Groups and Children's Camps

(a) Coordinating Large Groups and Pre-arrangements

(b) Buddy and Board Systems

(c) Swimming Ability Assessment

(d) Swimming Area Selection

(iii) Competitive Events

(4) Facility Operation and Management

(i) Safety Equipment

(ii) Hazards

(iii) Weather Conditions

(d) Types of Emergencies and Emergency Action Plans (EAP)

(e) Lifeguard Preparedness

(1) Staff Orientation and Training

(2) In-service Training

(f) Risk Management

(ii) Such person must correctly answer at least 80 percent of the questions on a written and/or oral test on theory and knowledge.

SUBPART 6-2

Bathing Beaches

(Statutory Authority: Public Health Law §225

A new subdivision (e) of section 6-2.20 is added to read as follows:

(e) Lifeguard Supervision and Management

(1) No person shall be qualified under this subdivision unless such person:

(i) Possesses current certification issued by a certifying agency determined by the State Department of Health to provide an adequate level of training in lifeguard supervision and management covering those items set forth below. Certification shall be valid for the time period specified by the certifying agency, but may not exceed a consecutive three-year period from course completion.

The training course will be determined to be acceptable if, after a review, all the materials submitted by the program sponsor are determined to be complete and meet the requirements of this section. Instructors shall have sufficient experience and knowledge in lifeguard supervision and management to effectively communicate the subject matter required by this section:

(a) Program Goals and Objectives

(b) Lifeguard and Lifeguard Supervisor Duties and Responsibilities

(c) Injury Prevention and Preventative Lifeguarding

(1) Communication Systems

(2) Patron Surveillance

(i) Victim Recognition

(ii) Effective Scanning

(iii) Lifeguard Positioning and Rotation

(iv) Lifeguard Breaks

(3) Surveillance for Groups

(i) Instruction Programs

(ii) Large Groups and Children's Camps

(a) Coordinating Large Groups and Pre-arrangements

(b) Buddy and Board Systems

(c) Swimming Ability Assessment

(d) Swimming Area Selection

(iii) Competitive Events

(4) Facility Operation and Management

(i) Safety Equipment

(ii) Hazards

(iii) Weather Conditions

(d) Types of Emergencies and Emergency Action Plans (EAP)

(e) Lifeguard Preparedness

(1) Staff Orientation and Training

(2) In-service Training

(f) Risk Management

(ii) Such person must correctly answer at least 80 percent of the questions on a written and/or oral test on theory and knowledge.

Summary of Regulatory Impact Statement

Statutory Authority:

The Public Health and Health Planning Council is authorized by Section 225(4) of the Public Health Law (PHL) to establish, amend and repeal sanitary regulations to be known as the State Sanitary Code (SSC), subject to the approval of the Commissioner of Health. Article 13-B of the PHL sets forth sanitary and safety requirements for children's camps. Sections 225 and 201(1)(m) authorize SSC regulation of the sanitary aspects of businesses and activities affecting public health including children's camps, swimming pools and bathing establishments. Sections 1340-1342 of the PHL set forth sanitary and safety requirements for bathing establishments.

Legislative Objectives:

In authorizing adoption of the SSC and in enacting PHL Sections 225, 201(1)(m), and 1340-1342; and Article 13-B, the legislative objective was to protect the health and safety of children.

Needs and Benefits:

The summer day camp definition and permit fee amendments are necessary to be consistent with PHL and accurately define a summer day camp in this Subpart.

The proposed amendments exempt "pre-college", school, and classroom based educational programs because they are not within the intent of the regulation.

References to American Red Cross (ARC) courses are replaced with course curriculum standards for first aid and CPR certifications to better specify the minimum training requirements.

The first aid course accepted for day camps with minimal physical activity was eliminated because these programs will no longer be regulated as a result of amendments to the summer day camp definition.

Camp Aquatic Directors (CAD) minimum experience, certification, and training requirements have been clarified and improved to ensure a CAD will have the knowledge and experience to establish safe swimming programs at camps.

The percentage of 16-year-old lifeguards allowed to supervise the camp's on-site swimming activities has been increased and may make it easier for camp operators to hire a sufficient number of lifeguards. Bather safety is not compromised because required certifications ensure all lifeguards have the minimum skills and knowledge to effectively supervise swimming and each camp has an aquatics director to supervise the lifeguard staff.

The State Sex Offender Registry checks and meningococcal disease vaccination notification amendments incorporate PHL requirements into the regulation making it easier for camp operators to identify and comply with requirements to operate a children's camp.

Reflective triangles have been added as an optional warning device to alert approaching motorists of the presence of a stopped camp vehicle. Current standards require flares, which may pose a safety hazard and require special storage consideration.

For camp trips to lifeguarded bathing facilities, an option has been added for camps to provide staff members who possess training in an approved aquatic injury prevention and emergency response course instead of lifeguarding. This option ensures that camp staff has adequate training to oversee camp requirements and eliminates the need for the camp to hire a lifeguard, which is often difficult to do when the camp does not have its own bathing facility.

The wilderness swimming amendment clarifies that lifeguard staff may count toward the number of required CPR certified staff.

Amendments are proposed to respectively eliminate and reduce burdensome fire extinguishing sprinkler systems and floor area requirements of the Uniform Fire Prevention and Building Construction Code (Uniform Code) for certain simple one-story summer camp cabins that are only occupied for a few months a year.

As a result of a change to PHL, an amendment is necessary to accurately identify the PHL section that defines the term “officers” that is referenced.

Compliance Costs:**Cost to Regulated Parties:**

The amendment which excludes college level educational programs from regulation as a children's camp will have cost savings of the \$100 permit fee (\$200 starting April 1, 2011), and any administrative, staffing, or other costs required for compliance with Subpart 7-2 of the SSC for programs no longer requiring regulation.

The amendments for camp trip swimming may result in an estimated cost savings between \$160 to \$225 when a specially trained staff member is utilized instead of hiring a lifeguard.

The amendment for wilderness swimming may result in an estimated cost savings of \$67 to \$120 for training additional CPR staff in instances that the regulation was misunderstood and lifeguards were not counted toward the CPR requirement.

The amendment, which eliminates the Uniform Code requirement for fire-extinguishing sprinkler systems in certain newly constructed camp cabins, will result in cost savings to regulated parties when constructing these cabins. The cost savings will vary depending on each building's design/layout and water supply. One fire sprinkler design and installation company estimated the cost savings for a camp cabin to range from \$8,000 to \$12,500 depending on the camp's water supply/system. Additional cost savings, which cannot be estimated, may be associated with the electrical service, fire alarm system, and other unique needs of the cabin associated with a sprinkler system installation.

Summer day camp definition, and school and classroom based educational program exemptions:

Children's programs that now qualify as a summer day camp will have operating cost increases including a statutory \$200 permit fee and any additional costs required for compliance with Subpart 7-2 of the SSC. The cost for newly regulated operators will vary depending on the current level of compliance of the program with Subpart 7-2 requirements and cannot be estimated.

Adding exemptions to the regulation for schools and summer classroom based educational programs ensures these programs will have no costs associated with this regulation.

Sex Offender Registry Checks and Meningococcal Disease Information:

The amendments for staff sex offender registry background checks and the distribution of meningococcal disease information incorporate existing PHL requirements into the regulation and have already been implemented by regulated parties. Costs associated with conducting the sex offender checks are limited to staffing expenses to collect and submit the required information to NYS Division of Criminal Justice Services (DCJS) and will vary depending on the number of names to be submitted and the salary of the staff person compiling the information. It is anticipated that an entry level staff person earning the minimum wage of \$7.25/hour can compile the necessary information for DCJS for 100 employees within a few hours. DCJS conducts checks of the Registry free of charge.

The expenses to distribute meningococcal disease materials to camper parents is limited to overnight camps with campers in attendance for 7 or more consecutive nights and include the cost of printing and mailing. The costs for affected overnight camps cannot be estimated as costs will vary depending on the number of campers that materials must be mailed to. It is anticipated that camps will minimize expenses by mailing the required materials along with other information already being mailed such as health forms.

Camp aquatic director (CAD) qualifications:

Children's camps with bathing facilities may have an initial cost increase of approximately \$60 to \$160 associated with the addition of a training course in lifeguard supervision and management to the minimum qualifications for a CAD. However, future costs for the CAD position may decrease between \$30 to \$240 as a result of eliminating the requirement for CADs to obtain or maintain a current certification as a lifeguard or progressive swimming instructor.

There are no costs to regulated parties associated with any other proposed amendment.

Cost to State and Local Government:

State agencies and local governments that operate children's camps will have the same costs and savings described in the section entitled "Cost to Regulated Parties."

Because each overnight children's camp requires about four days of staff time for a local health department (LHD) to perform regulatory duties, the exclusion of each "pre-

college” educational program from regulatory oversight as a camp will allow LHD staff to be used in other capacities.

The amendments to the summer day camp definition will result in an estimated 284 new summer day camps. Most LHDs will have an additional workload to perform regulatory duties.

Cost to the Department of Health:

There will be routine costs associated with printing and distributing the amended Codes.

Local Government Mandates:

Children’s camps operated by local governments will be required to comply with the requirements of the amended sections as described in the section entitled “Needs and Benefits” but the proposed amendments do not otherwise impose new program duties or responsibilities on local governments.

Paperwork/Reporting:

The proposed amendments incorporate existing PHL requirements for sex offender registry checks and distribution of meningococcal disease information, which do require some paperwork; however, these requirements have already been implemented by regulated parties and will impose no additional paperwork to regulated parties or State and local governments.

Duplication:

This regulation does not duplicate any existing federal, state, or local regulation.

Alternatives Considered:

An alternative considered was to not require the CAD to obtain training in lifeguard supervision and management. This alternative was rejected because a review of eight drowning incidents at children's camps identified that, in all but one of the incidents, improper management of the camp's waterfront was a contributing factor to the incident. Additionally consideration was given to specifying the minimum number of hours of previous lifeguarding experience that are needed to qualify as a CAD. Based on comments received during outreach to interested parties and local health departments, this consideration was rejected because it was unrealistic and too burdensome to verify and document experience in this manner.

Another alternative considered was to establish the minimum age of lifeguards to be 16 years old, and not limit the number of 16-year old lifeguards. The alternative was rejected after consultation with the State Camp Safety Advisory Council, which recommended the DOH allow 50 percent of the required on-duty lifeguards to be 16 years old.

Consideration was also given to not making any of the proposed amendments, however, this was rejected because the amendments enhance current regulations to minimize risk to camper's health and benefit camp operators by clarifying or providing alternative options to existing regulations.

Federal Standards:

Currently, no federal law governs the operation of children's camps, swimming pools or bathing beaches and regulatory standards vary widely from state to state.

Compliance Schedule:

Most of the proposed amendments are to be effective upon publication of a Notice of Adoption in the State Register. However, the increased permit fee will be effective April 1, 2011 and the requirement for CAD to possess certification in “lifeguard supervision and management” will be effective January 1, 2012.

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Regulatory Impact Statement

Statutory Authority:

The Public Health and Health Planning Council is authorized by Section 225(4) of the Public Health Law (PHL) to establish, amend and repeal sanitary regulations to be known as the State Sanitary Code (SSC), subject to the approval of the Commissioner of Health. Article 13-B of the PHL sets forth sanitary and safety requirements for children's camps. PHL Sections 225 and 201(1)(m) authorize SSC regulation of the sanitary aspects of businesses and activities affecting public health including children's camps, swimming pools and bathing establishments. Sections 1340-1342 of the PHL set forth sanitary and safety requirements for bathing establishments.

Legislative Objectives:

In authorizing adoption of the SSC and in enacting PHL Sections 225, 201(1)(m), and 1340-1342; and Article 13-B, the legislative objective was to protect the health and safety of children. Additionally, the legislature enacted Article 13A of PHL which requires the Commissioner of Health to establish a State Camp Safety Advisory Council to provide industry and consumer advice and consultation to the Department on policy matters relating to youth camp safety. The proposed amendments further the legislative objective of protecting the health and safety of children attending camps in New York State (NYS).

Needs and Benefits:

Summer Day Camp Definition:

Chapter 439 of the laws of 2009 amended PHL, Section 1392, revising the definition of a summer day camp in Article 13-B of PHL and resulting in a need to amend the SSC to implement the new PHL summer day camp definition.

First Aid and CPR Certification Standards:

The proposed amendments replace references to American Red Cross (ARC) courses with course curriculum standards for first aid and CPR certifications to better specify the minimum training requirements. The ARC first aid course accepted for camps with minimal physical activity was eliminated because these programs will no longer be regulated as a result of amendments to the summer day camp definition.

School and Classroom Based Educational Programs:

As a result of amendments to the summer day camp definition, summer schools and other classroom based programs could be categorized as day camps. The proposed amendments exempt these programs as summer day camps because they are not within the intent of the regulation.

College Level Educational Programs:

The applicability of Subpart 7-2 (Children's Camps) of the SSC to overnight summer college programs for high school students, typically known as "pre-college" programs, has been evaluated and determined to not be within the intent of, or regulation by, the Subpart. The proposed amendments add college level educational programs provided by accredited colleges to the list of programs exempt from regulation.

Children's Camp Permit Fee:

The permit fee for children's camps is increased from \$100 to \$200 dollars consistent with amendments to PHL Section 1393 (4) by Chapter 439 of the Laws of 2009.

Camp Aquatic Director Qualifications (CAD):

CADs are responsible for establishing and overseeing swimming programs at children's camps. Since 1987, the Department of Health (DOH) has investigated eight drowning incidents that occurred at camps during a swimming activity and identified that in all but one of the incidents the CADs lacked a thorough understanding of lifeguarding management practices, aquatic injury prevention, and/or DOH regulations to prevent drownings. An assessment of the current SSC CAD qualifications and training requirements determined that the regulation does not ensure a CAD will have the knowledge to establish safe swimming programs at camps. As a result, amendments are proposed to modify training requirements and clarify minimum experience and duties of the CAD as follows:

- The experience that is necessary to qualify as a CAD is clarified. The minimum number of weeks of prior lifeguarding experience is established based on the type of bathing facility the experience was obtained. Lifeguards may qualify by having at least two seasons of experience at a children's camp or at least three seasons of experience at a non-camp bathing facility that required multiple lifeguards to supervise it.

- Certification in “lifeguard supervision and management” is added to ensure CADs have sufficient training to supervise lifeguard staff and establish an effective bather surveillance system. The curriculum standard for a “lifeguard supervision and management” course is added to Subpart 6-1 (Swimming Pools) and Subpart 6-2 (Bathing Beaches) because all other certification standards for aquatic staff are specified in these Subparts.
- The requirement for CADs to have current certification as a lifeguard or progressive swimming instructor is removed because these certifications do not enhance a CAD’s ability to establish and oversee a swimming program. A lifeguard is trained to make rescues and supervise patrons while a progressive swimming instructor is trained in how to teach swimming and diving. However, the cognitive knowledge, but not skills performance, are included in “lifeguard supervision and management.” The knowledge of the lifeguarding principles does enhance the CAD’s ability to supervise lifeguard staff.
- A requirement for reviewing the camp’s safety plan is added to ensure that CADs are knowledgeable in DOH regulations and the camp’s approved policies and procedures for camp swimming activities.
- The CAD duties have been clarified to only mandate oversight of swimming activities and not other waterfront activities such as boating.

Lifeguard Age Requirement:

Except for wilderness swimming, the existing code requires lifeguards at children’s camps to be a minimum of 17 years old, but allows a maximum of 20 percent

to be 16 years old. The requirement is an attempt to ensure that lifeguards at children's camps are responsible and will effectively execute the duties of the position. The amendment allows up to 50 percent of required lifeguards to be 16 years old. A lifeguard's training ensures that all certified lifeguards possess the minimum skills and knowledge to effectively supervise swimming. Because children's camps with onsite swimming must have an aquatics director who is a minimum of 21 years old and responsible for directly overseeing the swimming, including the supervision of lifeguard staff, adequate supervision of bathers should not be compromised. The amendment allows camps to utilize more 16-year-old lifeguards, who are often readily available for hire.

Child Safety Act:

Chapter 428 of the Laws of 2008 amended Article 13-B of the PHL to require camp operators to ascertain whether employees and volunteers are listed on the NYS Division of Criminal Justice Services (DCJS) Sex Offender Registry prior to the employee or volunteer commencing work at the camp, and annually thereafter. The proposed amendments incorporate the Child Safety Act requirements of Correction Law, Section 168-b (9) into the regulation making it easier for camp operators to identify and comply with PHL requirements to operate a camp.

Meningococcal Disease:

Chapter 165 of the Laws of 2003 added Section 2167 to the PHL requiring overnight children's camps to distribute meningococcal meningitis disease and vaccination information to parents and collect immunization information for all campers

who attend camp for 7 or more consecutive nights. The proposed amendments will incorporate PHL requirements into the regulation, making it easier for camp operators to identify and comply with PHL requirements to operate a camp.

Reflective Triangles:

The existing code requires vehicles used to transport staff or campers to be equipped with flares to warn approaching motorists of the presence of a stopped vehicle. Because flares may pose a safety hazard and require special storage consideration, the proposed amendments adds an option for camps to use reflective triangles that meet Federal Motor Vehicle Safety Standard in lieu of flares to safely and effectively comply with the requirement. See Title 49 CFR Part 571 et seq.

Camp Trip (Off-Site) Swimming:

For camp trips to off-site lifeguarded bathing facilities that are not operated by the camp, the existing code requires camps to provide one camp lifeguard for each 75 campers. The camp lifeguard's primary role is to supervise camper swimming activities and implement the camp's safety plan and is not expected to fulfill necessary lifeguarding responsibilities, since the facility provides lifeguards and has established emergency procedures and bather surveillance systems in place. It has been difficult for camps that do not have on-site aquatic programs and only take a few camp trips each year to hire lifeguards to meet current regulation. The proposed amendments add an option for camps to provide staff members who possess training in an approved aquatic injury prevention and emergency response course instead of lifeguarding.

Wilderness Swimming:

An amendment is proposed to clarify that lifeguard staff may count toward the number of CPR certified staff that are required for wilderness swimming. The current regulation has been misinterpreted to exclude lifeguards from the required staff to be certified in CPR, which is not the intent of the regulation.

Sleeping Quarters:

Chapter 443 of the Laws of 2009 amended section 378 (1) of the Executive Law to make Subpart 7-2 of the SSC the reference standard for the Uniform Fire Prevention and Building Code (Uniform Code) as it relates to overnight children's camps sleeping quarters. As a result, amendments are proposed to respectively eliminate and reduce fire extinguishing sprinkler systems and floor area requirements of the Uniform Fire Prevention and Building Construction Code (Uniform Code) for simple one-story camp cabins that are only occupied for a few months a year.

Building Code requirements for sprinkler systems in new construction for one and two story transient occupancies and minimum floor area for all sleeping quarters became effective in 2003 when NYS adopted the International Building Code. One of the purposes of a sprinkler system is to provide additional time for occupants to exit a building when there is a fire, the requirement is viewed as unnecessary and overly costly to install in small, single story cabins that take seconds for occupants to exit. The Uniform Code minimum floor area requirements imposes a new standard on existing buildings, which reduces the number of occupants in each cabin that was previously in compliance with Department of Health occupancy requirements. The proposed

amendment for sprinkler systems and minimum floor area were established in consultation with the Department of State and regulated camping industry.

Miscellaneous:

As a result of a change to PHL, an amendment is necessary to accurately identify the PHL section 1392 (4), which defines the term “officers” that is referenced.

Compliance Costs:

Cost to Regulated Parties:

College level educational programs, first aid and CPR certification standards, lifeguard age requirement, reflective triangles, camp trip, wilderness swimming and sleeping quarters:

There is no cost increase to regulated parties associated with the proposed amendments pertaining to college level educational programs, first aid and CPR certification standards, lifeguard age requirement, reflective triangles, camp trip swimming, wilderness swimming, and sleeping quarters.

The amendment to exclude college level educational programs as a type of operation regulated as a children’s camp will have cost savings of the \$100 permit fee (\$200 starting April 1, 2011), and any administrative, staffing, or other costs required for compliance with Subpart 7-2 of the SSC for programs no longer requiring regulation. The cost savings associated with changes in administrative, staffing, and other compliance expenses cannot be estimated because changes will vary by program and cannot be anticipated.

The amendments for reflective triangles and camp trip swimming provide camps with an acceptable alternative to existing regulations and do not impose any additional requirements on regulated parties and may result in a cost saving for camp trip swimming activities when a specially trained staff member is utilized instead of hiring a lifeguard. The cost for a training course in aquatic injury prevention and emergency response is estimated to be between \$160 to \$225 less than a lifeguard training course. The amendment for wilderness swimming may result in an estimated cost savings of \$67 to \$120 for additional CPR training for camps in instances that the regulation was misunderstood and lifeguards were not counted toward the CPR requirement.

The amendment, which eliminates the Uniform Code requirement for fire-extinguishing sprinkler systems in certain newly constructed camp cabins, will result in cost savings to regulated parties when constructing these cabins. The cost savings will vary depending on each building's design/layout and water supply. One Capital District based fire sprinkler design and installation company estimated the cost savings for a simple 1,200 square foot camp cabin to range from \$8,000 for a cabin with a municipal water supply to \$12,500 for a cabin with an on-site water supply requiring additional water storage capacity and pump system. Camps may have additional site specific cost savings, which cannot be estimated, related to the electrical service, fire alarm system, and other unique needs of the cabin associated with a sprinkler system installation.

The amendments, which reduce and clarify the occupant floor area requirements for new and existing sleeping quarters, do not impose any additional costs on the regulated parties. However, they may result in additional revenue for camp operators

when constructing certain new camp cabins or in existing camp cabins that local code officials have limited the occupancy to the more restrictive Uniform Standard.

Sex Offender Registry Checks and Meningococcal Disease Information:

The amendments for staff sex offender registry background checks and the distribution of meningococcal disease information incorporate existing PHL requirements into the regulation and have already been implemented by regulated parties. Costs associated with conducting the checks are limited to staffing expenses to submit staff and volunteer names and identifying information, such as date of birth or social security number, to the NYS Division of Criminal Justice Services (DCJS). DCJS conducts checks of the Registry free of charge. The staffing expenses to collect and submit the required information to DCJS will vary depending on the number of names to be submitted and the salary of the staff person compiling the information. However, it is anticipated that an entry level staff person earning the minimum wage of \$7.25/hour can compile the necessary information for DCJS for 100 employees within a few hours.

The expenses to distribute meningococcal disease materials to camper parents is limited to overnight camps with campers in attendance for 7 or more consecutive nights and include the cost of printing and mailing. The DOH has prepared the necessary information and response forms that camps may utilize. The costs for affected overnight camps cannot be estimated as costs will vary depending on the number of campers that materials must be mailed to. It is anticipated that camps will minimize expenses by mailing the required materials along with other information already being mailed such as health forms.

Summer day camp definition, and school and classroom based educational program exemptions:

The amendment to the summer day camp definition updates the current definition in this Subpart to be consistent with recent legislative amendments to the definition in PHL. As prescribed by Chapter 439 of the laws of 2009, the revised definition will not take effect until April 1, 2011. Programs that were not regulated in the past, but meet the revised definition of a summer day camp will have an operating cost increase of the statutory \$200 permit fee (effective 4/1/11), and any additional administrative, staffing, or other costs required for compliance with Subpart 7-2. The cost for newly regulated operators will vary depending on the current level of compliance of the program with Subpart 7-2 requirements and cannot be estimated.

Adding exemptions to the regulation for schools and certain summer classroom based educational programs ensures these programs will have no costs associated with this regulation.

Camp aquatic director (CAD) qualifications:

Children's camps with bathing facilities may have an initial cost increase of approximately \$60 to \$160 associated with the addition of a training course in lifeguard supervision and management to the minimum qualifications for a CAD. However, future costs for the CAD position may decrease as a result of eliminating the requirement for CADs to maintain a current certification as a lifeguard or progressive swimming instructor. The cost for American Red Cross (ARC) courses are listed in the table below. The estimated future cost savings is between \$30 to \$225 every three years for those that

previously obtained or maintained a lifeguard certification to qualify as CAD and between \$100 to \$240 for those who chose to qualify by certifying as a progressive swimming instructor.

Certification Title	Initial Certification Cost	Recertification Cost
Eliminated Certification Requirement		
ARC Lifeguarding	\$220 - \$385	\$90 - \$175 (every three years)
Or		
ARC Water Safety Instructor (Progressive Swimming Instructor)	\$160 - \$400	None – as long as one course is taught in a two-year period.
New Certification Requirement		
ARC Lifeguard Management	\$60 – \$160	\$60 – \$160 (every three years)

Cost to State and Local Government:

State agencies and local governments that operate children’s camps will have the same costs and savings described in the section entitled “Cost to Regulated Parties.”

Currently, it is estimated that fewer than fifty camps are operated by the State University of New York, four camps are operated by the Department of Environmental Conservation, and one camp is operated the Office of Parks, Recreation and Historical Preservation.

It is estimated that local health departments (LHDs) invest an average of four staff days a year to inspect and perform other regulatory duties for each overnight camp. Using an average salary of \$50 per hour, the exclusion of each “pre-college” educational program from regulatory oversight as a camp can be viewed as cost savings of approximately \$1,500 of staff time for each “pre-college” program. It is not known how

many existing pre-college programs will no longer be subject to regulation. It is estimated that less than five such programs are currently regulated.

Based on a 2010 survey of LHDs, the amendments to the summer day camp definition will result in an estimated 284 new summer day camps. Of the 284 additional summer day camps, 76 are located within NYS Department of Health District Office jurisdictions. Regulation of 208 camps will impact 36 county health departments and the New York City Department of Health and Mental Hygiene staffing requirements. Because each day camp requires an average of 2.5 LHD staff days to inspect and perform other regulatory duties, the additional workload statewide is estimated to be \$266,250 using an average hourly salary of \$50 per hour (284 new camps x 2.5 days per camp at \$50 per hour).

Cost to the Department of Health:

There will be routine costs associated with printing and distributing the amended Codes. The estimated cost to print revised code books for each regulated children's camp, swimming pool, and bathing beach in NYS is \$5,294.

Local Government Mandates:

Children's camps operated by local governments will be required to comply with the requirements of the amended sections as described in the section entitled "Needs and Benefits" but the proposed amendments do not otherwise impose new program duties or responsibilities on local governments. Currently, 345 camps are estimated to be operated by municipalities. City and county health departments continue to be responsible for enforcing the amended regulations as part of their existing program responsibilities.

Paperwork/Reporting:

Child Safety Act:

The paperwork associated with conducting the sex offender registry checks includes submitting a list of camp staff with identifying information, such as date of birth or social security number, to the NYS Division of Criminal Justice Services (DCJS). Information can be submitted via an email attachment, CD-ROM, regular mail, or fax. Up to 5 names at a time may be checked by telephone. Results of the sex offender registry search must be maintained at the camp for review during inspections.

Meningococcal Disease:

The paperwork associated with the proposed meningococcal disease amendment includes the need for camp operators to provide disease and vaccine information to the parents of campers and to collect and maintain an immunization response form. The materials will only need to be distributed to parents of campers who attend camp for 7 or more consecutive nights. The DOH has prepared the necessary information and response forms that camps may utilize.

Duplication:

This regulation does not duplicate any existing federal, state, or local regulation.

Alternatives Considered:

An alternative considered was to not require the CAD to obtain training in lifeguard supervision and management. This alternative was rejected because a review of eight drowning incidents at children's camps identified that, in all but one of the

incidents, improper management of the camp's waterfront was a contributing factor to the incident. Additionally consideration was given to specifying the minimum number of hours of previous lifeguarding experience that are needed to qualify as a CAD. Based on comments received during outreach to interested parties and local health departments, this consideration was rejected because it was unrealistic and too burdensome to verify and document experience in this manner.

Another alternative considered was to establish the minimum age of lifeguards to be 16 years old, and not limit the number of 16-year old lifeguards. The alternative was rejected after consultation with the State Camp Safety Advisory Council, which recommended the DOH allow 50 percent of the required on-duty lifeguards to be 16 years old.

Consideration was also given to not making any of the proposed amendments, however, this was rejected because the amendments enhance current regulations to minimize risk to camper's health and benefit camp operators by clarifying or providing alternative options to existing regulations.

Federal Standards:

Currently, no federal law governs the operation of children's camps, swimming pools or bathing beaches and regulatory standards vary widely from state to state.

Compliance Schedule:

Most of the proposed amendments are to be effective upon publication of a Notice of Adoption in the State Register. However, the increased permit fee, imposed by statute,

will be effective April 1, 2011 and the requirement for CAD to possess certification in “lifeguard supervision and management” will be effective January 1, 2012.

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Summary of Regulatory Flexibility Analysis for Small Business and Local Government

Types and Estimated Number of Small Businesses and Local Governments:

There are approximately 2,861 regulated children's camps (578 overnight and 2283 summer day camps) operating in New York State, of which all will be affected by the proposed rule. Municipalities (towns, villages, cities and school districts) operate 344 summer day camps and one overnight camp. Most of the remaining camps are believed to be small businesses.

Compliance Requirements:

Reporting and Recordkeeping:

There are no reporting requirements associated with the proposed amendments.

The amendments require camps operators to maintain records of sex offender registry checks for staff and meningococcal meningitis immunization response forms for campers attending camp for seven or more consecutive nights; however, these amendments impose no additional recordkeeping on regulated parties as they incorporate existing Public Health Law (PHL) requirements into the regulation. Camp operators will be required to maintain an additional record pertaining to camp aquatics director certification in a lifeguard supervision and management course.

Other Affirmative Acts:

The summer day camp definition and permit fee amendments are necessary to be consistent with PHL and accurately define a summer day camp in this Subpart.

The proposed amendments exempt “pre-college”, school, and classroom based educational programs because they are not within the intent of the regulation.

References to American Red Cross (ARC) courses are replaced with course curriculum standards for first aid and CPR certifications to better specify the minimum training requirements.

The first aid course accepted for day camps with minimal physical activity was eliminated because these programs will no longer be regulated as a result of amendments to the summer day camp definition.

Camp Aquatic Directors (CAD) minimum experience, certification, and training requirements have been clarified and improved to ensure a CAD will have the knowledge and experience to establish safe swimming programs at camps.

The percentage of 16-year-old lifeguards allowed to supervise the camp’s on-site swimming activities has been increased and may make it easier for camp operators to hire a sufficient number of lifeguards. Bather safety is not compromised because required certifications ensure all lifeguards have the minimum skills and knowledge to effectively supervise swimming and each camp has an aquatics director to supervise the lifeguard staff.

The State Sex Offender Registry checks and meningococcal disease vaccination notification amendments incorporate PHL requirements into the regulation making it

easier for camp operators to identify and comply with requirements to operate a children's camp.

Reflective triangles have been added as an optional warning device to alert approaching motorists of the presence of a stopped camp vehicle. Current standards require flares, which may pose a safety hazard and require special storage consideration.

For camp trips to lifeguarded bathing facilities, an option has been added for camps to provide staff members who possess training in an approved aquatic injury prevention and emergency response course instead of lifeguarding. This option ensures that camp staff has adequate training to oversee camp requirements and eliminates the need for the camp to provide a lifeguard, which is often difficult to do when the camp does not have its own bathing facility.

The wilderness swimming amendment clarifies that lifeguard staff may count toward the number of required CPR certified staff.

Amendments are proposed to respectively eliminate and reduce burdensome fire extinguishing sprinkler systems and floor area requirements of the Uniform Fire Prevention and Building Construction Code (Uniform Code) for certain simple one-story summer camp cabins that are only occupied for a few months a year.

As a result of a change to PHL, an amendment is necessary to accurately identify the PHL section that defines the term “officers” that is referenced.

Professional Services:

There are no professional services required to comply with the proposed amendments.

Compliance Costs:

Cost to Regulated Parties:

The amendment to exclude college level educational programs from regulation as a children’s camp will have cost savings of the \$100 permit fee (\$200 starting April 1, 2011), and any administrative, staffing, or other costs required for compliance with Subpart 7-2 of the SSC for programs no longer requiring regulation.

The amendments for camp trip swimming may result in an estimated cost savings between \$160 to \$225 when a specially trained staff member is utilized instead of hiring a lifeguard.

The amendment for wilderness swimming may result in an estimated cost savings of \$67 to \$120 for training additional CPR staff in instances that the regulation was misunderstood and lifeguards were not counted toward the CPR requirement.

The amendment, which eliminates the Uniform Code requirement for fire-extinguishing sprinkler systems in certain newly constructed camp cabins, will result in cost savings to regulated parties when constructing these cabins. The cost savings will vary depending on each building’s design/layout and water supply. One fire sprinkler design and installation company estimated the cost savings for a camp cabin to range

from \$8,000 to \$12,500 depending on the camp's water supply/system. Additional cost savings, which cannot be estimated, may be associated with the electrical service, fire alarm system, and other unique needs of the cabin associated with a sprinkler system installation.

Summer day camp definition, and school and classroom based educational program exemptions:

Children's programs that now qualify as a summer day camp will have operating cost increases including a statutory \$200 permit fee and any additional costs required for compliance with Subpart 7-2 of the SSC. The cost for newly regulated operators will vary depending on the current level of compliance of the program with Subpart 7-2 requirements and cannot be estimated.

Adding exemptions to the regulation for schools and summer classroom based educational programs ensures these programs will have no costs associated with this regulation.

Sex Offender Registry Checks and Meningococcal Disease Information:

The amendments for staff sex offender registry background checks and the distribution of meningococcal disease information incorporate existing PHL requirements into the regulation and have already been implemented by regulated parties. Costs associated with conducting the sex offender checks are limited to staffing expenses to collect and submit the required information to NYS Division of Criminal Justice Services (DCJS) and will vary depending on the number of names to be submitted and the salary

of the staff person compiling the information. It is anticipated that an entry level staff person earning the minimum wage of \$7.25/hour can compile the necessary information for DCJS for 100 employees within a few hours. DCJS conducts checks of the Registry free of charge.

The expenses to distribute meningococcal disease materials to camper parents is limited to overnight camps with campers in attendance for 7 or more consecutive nights and include the cost of printing and mailing. The costs for affected overnight camps cannot be estimated as costs will vary depending on the number of campers that materials must be mailed to. It is anticipated that camps will minimize expenses by mailing the required materials along with other information already being mailed such as health forms.

Camp aquatic director qualifications:

Children's camps with bathing facilities may have an initial cost increase of approximately \$60 to \$160 associated with the addition of a training course in lifeguard supervision and management to the minimum qualifications for a CAD. However, future costs for the CAD position may decrease between \$30 and \$240 as a result of eliminating the requirement for CADs to obtain or maintain a current certification as a lifeguard or progressive swimming instructor.

There are no costs to regulated parties associated with any other proposed amendment.

Cost to Local Government:

Local governments that operate children's camps will have the same costs and savings described in the section entitled "Cost to Regulated Parties."

Because each overnight children's camp requires about four days of staff time for a local health department (LHD) to perform regulatory duties, the exclusion of each "pre-college" educational program from regulatory oversight as a camp will allow LHD staff to be used in other capacities.

The amendments to the summer day camp definition will result in an estimated 284 new summer day camps. Most LHDs will have an additional workload to perform regulatory duties.

Economic and Technological Feasibility:

There are no changes requiring the use of technology.

The proposal is believed to be economically feasible for currently regulated parties because only camps that operate a swimming pool or bathing beach will have a cost increase, as specified in the Compliance Cost section of this document. The economic feasibility for programs that will now require regulation because they meet the revised definition of a summer day camp cannot be predicted.

Minimizing Adverse Economic Impact:

The proposed rule amends the standards for children's camps to minimize risk to the public health. The proposal takes into account the resources available to camp operators and gives operators until the 2012 camp season to have a CAD obtain certification in a "lifeguard supervision and management" course. Because all children

attending camp should be provided with the same level of protection, small businesses or local governments are not exempted from compliance with the regulations. Where possible the rule utilizes performance standards and provides alternatives for compliance instead of prescriptive standards. Examples include training curriculum for CAD, CPR and first aid; camp trip swimming supervision and the use of reflective triangles in addition to flares to warn approaching motorists of the presence of a stopped vehicle. A waiver allowing alternative arrangements that do not meet the provisions of the Subpart but protect the health and safety of the patrons and the public can be granted. Alternatively, should this rule have a substantial adverse impact on a particular facility, a variance, allowing additional time to comply with one or more requirements, can be granted if the health and safety of the public is not prejudiced by the variance.

Small Business Participation and Local Government Participation:

The proposed amendments are generally supported by and based in part on the recommendations received from the New York State Camp Safety Advisory Council (A nine member council, which includes a representative for municipally operated camps). In addition, outreach for comments from interested parties on the proposed regulations were sought on two separate occasions in 2008 and 2010. Some minor edits were made to the proposed amendments based on comments received.

In 2010, the Department obtained input from representatives of the New York State Association of County Health Officials for the development of the definition of nonpassive recreational activities with significant risk of injury and a guidance document

to assist children's program operators and local health departments with determining if a program qualified as summer day camps.

Regulatory Flexibility Analysis for Small Business and Local Government

Types and Estimated Number of Small Businesses and Local Governments:

There are approximately 2,861 regulated children's camps (578 overnight and 2283 summer day camps) operating in New York State, of which all will be affected by the proposed rule. Three hundred forty four summer day camps and one overnight camp are operated by municipalities (towns, villages, cities and school districts). Typical regulated children's camps representing small business include those owned/operated by corporations, hotels, motels and bungalow colonies, non-profit organizations (Girl/Boy Scouts of America, Cooperative Extension, YMCA, etc.) and others. None of the proposed amendments will apply solely to small business or municipal camp operation.

Compliance Requirements:

Reporting and Recordkeeping:

There are no reporting requirements associated with the proposed amendments.

The amendments require camps operators to maintain records of sex offender registry checks for staff and meningococcal meningitis immunization response forms for campers attending camp for seven or more consecutive nights; however, these amendments impose no additional recordkeeping on regulated parties as they incorporate existing Public Health Law (PHL) requirements into the regulation. Camp operators will be required to maintain an additional record pertaining to camp aquatics director certification in a lifeguard supervision and management course. All required records are to be maintained at the camp and available for review by the local health departments.

Other Affirmative Acts:

Summer Day Camp Definition:

Chapter 439 of the laws of 2009 amended PHL, Section 1392, revising the definition of a summer day camp in Article 13-B of PHL and resulting in a need to amend the SSC to implement the new PHL summer day camp definition.

First Aid and CPR Certification Standards:

The proposed amendments replace references to American Red Cross (ARC) courses with course curriculum standards for first aid and CPR certifications to better specify the minimum training requirements. The ARC first aid course accepted for camps with minimal physical activity was eliminated because these programs will no longer be regulated as a result of amendments to the summer day camp definition.

School and Classroom Based Educational Programs:

As a result of amendments to the summer day camp definition, summer schools and other classroom based programs could be categorized as day camps. The proposed amendments exempt these programs as summer day camps because they are not within the intent of the regulation.

College Level Educational Programs:

The applicability of Subpart 7-2 (Children’s Camps) of the SSC to overnight summer college programs for high school students, typically known as “pre-college” programs, has been evaluated and determined to not be within the intent of, or regulation

by, the Subpart. The proposed amendments add college level educational programs provided by accredited colleges to the list of programs exempt from regulation.

Children's Camp Permit Fee:

The permit fee for children's camps is increased from \$100 to \$200 dollars consistent with amendments to PHL Section 1393 (4) by Chapter 439 of the Laws of 2009.

Camp Aquatic Director Qualifications (CAD):

CADs are responsible for establishing and overseeing swimming programs at children's camps. Since 1987, the Department of Health (DOH) has investigated eight drowning incidents that occurred at camps during a swimming activity and identified that in all but one of the incidents the CADs lacked a thorough understanding of lifeguarding management practices, aquatic injury prevention, and/or DOH regulations to prevent drownings. An assessment of the current SSC CAD qualifications and training requirements determined that the regulation does not ensure a CAD will have the knowledge to establish safe swimming programs at camps. As a result, amendments are proposed to modify training requirements and clarify minimum experience and duties of the CAD as follows:

- The experience that is necessary to qualify as a CAD is clarified. The minimum number of weeks of prior lifeguarding experience is established based on the type of bathing facility the experience was obtained. Lifeguards may qualify by having at least two seasons of experience at a children's camp or at least three

- seasons of experience at a non-camp bathing facility that required multiple lifeguards to supervise it.
- Certification in “lifeguard supervision and management” is added to ensure CADs have sufficient training to supervise lifeguard staff and establish an effective bather surveillance system. The curriculum standard for a “lifeguard supervision and management” course is added to Subpart 6-1 (Swimming Pools) and Subpart 6-2 (Bathing Beaches) because all other certification standards for aquatic staff are specified in these Subparts.
 - The requirement for CADs to have current certification as a lifeguard or progressive swimming instructor is removed because these certifications do not enhance a CAD’s ability to establish and oversee a swimming program. A lifeguard is trained to make rescues and supervise patrons while a progressive swimming instructor is trained in how to teach swimming and diving. However, the cognitive knowledge, but not skills performance, are included in “lifeguard supervision and management.” The knowledge of the lifeguarding principles does enhance the CAD’s ability to supervise lifeguard staff.
 - A requirement for reviewing the camp’s safety plan is added to ensure that CADs are knowledgeable in DOH regulations and the camp’s approved policies and procedures for camp swimming activities.
 - The CAD duties have been clarified to only mandate oversight of swimming activities and not other waterfront activities such as boating.

Lifeguard Age Requirement:

Except for wilderness swimming, the existing code requires lifeguards at children's camps to be a minimum of 17 years old, but allows a maximum of 20 percent to be 16 years old. The requirement is an attempt to ensure that lifeguards at children's camps are responsible and will effectively execute the duties of the position. The amendment allows up to 50 percent of required lifeguards to be 16 years old. A lifeguard's training ensures that all certified lifeguards possess the minimum skills and knowledge to effectively supervise swimming. Because children's camps with onsite swimming must have an aquatics director who is a minimum of 21 years old and responsible for directly overseeing the swimming, including the supervision of lifeguard staff, adequate supervision of bathers should not be compromised. The amendment allows camps to utilize more 16-year-old lifeguards, who are often readily available for hire.

Child Safety Act:

Chapter 428 of the Laws of 2008 amended Article 13-B of the PHL to require camp operators to ascertain whether employees and volunteers are listed on the NYS Division of Criminal Justice Services (DCJS) Sex Offender Registry prior to the employee or volunteer commencing work at the camp, and annually thereafter. The proposed amendments incorporate the Child Safety Act requirements of Correction Law, Section 168-b (9) into the regulation making it easier for camp operators to identify and comply with PHL requirements to operate a camp.

Meningococcal Disease:

Chapter 165 of the Laws of 2003 added Section 2167 to the PHL requiring overnight children's camps to distribute meningococcal meningitis disease and vaccination information to parents and collect immunization information for all campers who attend camp for 7 or more consecutive nights. The proposed amendments will incorporate PHL requirements into the regulation, making it easier for camp operators to identify and comply with PHL requirements to operate a camp.

Reflective Triangles:

The existing code requires vehicles used to transport staff or campers to be equipped with flares to warn approaching motorists of the presence of a stopped vehicle. Because flares may pose a safety hazard and require special storage consideration, the proposed amendments adds an option for camps to use reflective triangles that meet Federal Motor Vehicle Safety Standard in lieu of flares to safely and effectively comply with the requirement. See Title 49 CFR Part 571 et seq.

Camp Trip (Off-Site) Swimming:

For camp trips to off-site lifeguarded bathing facilities that are not operated by the camp, the existing code requires camps to provide one camp lifeguard for each 75 campers. The camp lifeguard's primary role is to supervise camper swimming activities and implement the camp's safety plan and is not expected to fulfill necessary lifeguarding responsibilities, since the facility provides lifeguards and has established emergency procedures and bather surveillance systems in place. It has been difficult for camps that do not have on-site aquatic programs and only take a few camp trips each year to hire

lifeguards to meet current regulation. The proposed amendments adds an option for camps to provide staff members who possess training in an approved aquatic injury prevention and emergency response course instead of lifeguarding.

Wilderness Swimming:

An amendment is proposed to clarify that lifeguard staff may count toward the number of CPR certified staff that are required for wilderness swimming. The current regulation has been misinterpreted to exclude lifeguards from the required staff to be certified in CPR, which is not the intent of the regulation.

Sleeping Quarters:

Chapter 443 of the Laws of 2009 amended section 378 (1) of the Executive Law to make Subpart 7-2 of the SSC the reference standard for the Uniform Fire Prevention and Building Code (Uniform Code) as it relates to overnight children's camps sleeping quarters. As a result, amendments are proposed to respectively eliminate and reduce fire extinguishing sprinkler systems and floor area requirements of the Uniform Fire Prevention and Building Construction Code (Uniform Code) for simple one-story camp cabins that are only occupied for a few months a year.

Building Code requirements for sprinkler systems in new construction for one and two story transient occupancies and minimum floor area for all sleeping quarters became effective in 2003 when NYS adopted the International Building Code. One of the purposes of a sprinkler system is to provide additional time for occupants to exit a building when there is a fire, the requirement is viewed as unnecessary and overly costly to install in small, single story cabins that take seconds for occupants to exit. The

Uniform Code minimum floor area requirements imposes a new standard on existing buildings, which reduces the number of occupants in each cabin that was previously in compliance with Department of Health occupancy requirements. The proposed amendment for sprinkler systems and minimum floor area were established in consultation with the Department of State and regulated camping industry.

Miscellaneous:

As a result of a change to PHL, an amendment is necessary to accurately identify the PHL section 1392 (4), which defines the term “officers” that is referenced.

Professional Services:

There are no professional services required to comply with the proposed amendments.

Compliance Costs:

Cost to Regulated Parties:

College level educational programs, first aid and CPR certification standards, lifeguard age requirement, reflective triangles, camp trip, wilderness swimming and sleeping quarters:

There is no cost increase to regulated parties associated with the proposed amendments pertaining to college level educational programs, first aid and CPR certification standards, lifeguard age requirement, reflective triangles, camp trip swimming, wilderness swimming, and sleeping quarters.

The amendment to exclude college level educational programs as a type of operation regulated as a children's camp will have cost savings of the \$100 permit fee (\$200 starting April 1, 2011), and any administrative, staffing, or other costs required for compliance with Subpart 7-2 of the SSC for programs no longer requiring regulation. The cost savings associated with changes in administrative, staffing, and other compliance expenses cannot be estimated because changes will vary by program and cannot be anticipated.

The amendments for reflective triangles and camp trip swimming provide camps with an acceptable alternative to existing regulations and do not impose any additional requirements on regulated parties and may result in a cost saving for camp trip swimming activities when a specially trained staff member is utilized instead of hiring a lifeguard. The cost for a training course in aquatic injury prevention and emergency response is estimated to be between \$160 to \$225 less than a lifeguard training course. The amendment for wilderness swimming may result in an estimated cost savings of \$67 to \$120 for additional CPR training for camps in instances that the regulation was misunderstood and lifeguards were not counted toward the CPR requirement.

The amendment, which eliminates the Uniform Code requirement for fire-extinguishing sprinkler systems in certain newly constructed camp cabins, will result in cost savings to regulated parties when constructing these cabins. The cost savings will vary depending on each building's design/layout and water supply. One Capital District based fire sprinkler design and installation company estimated the cost savings for a simple 1,200 square foot camp cabin to range from \$8,000 for a cabin with a municipal water supply to \$12,500 for a cabin with an on-site water supply requiring additional

water storage capacity and pump system. Camps may have additional site specific cost savings, which cannot be estimated, related to the electrical service, fire alarm system, and other unique needs of the cabin associated with a sprinkler system installation.

The amendments, which reduce and clarify the occupant floor area requirements for new and existing sleeping quarters, do not impose any additional costs on the regulated parties. However, they may result in additional revenue for camp operators when constructing certain new camp cabins or in existing camp cabins that local code officials have limited the occupancy to the more restrictive Uniform Standard.

Sex Offender Registry Checks and Meningococcal Disease Information:

The amendments for staff sex offender registry background checks and the distribution of meningococcal disease information incorporate existing PHL requirements into the regulation and have already been implemented by regulated parties. Costs associated with conducting the checks are limited to staffing expenses to submit staff and volunteer names and identifying information, such as date of birth or social security number, to the NYS Division of Criminal Justice Services (DCJS). DCJS conducts checks of the Registry free of charge. The staffing expenses to collect and submit the required information to DCJS will vary depending on the number of names to be submitted and the salary of the staff person compiling the information. However, it is anticipated that an entry level staff person earning the minimum wage of \$7.25/hour can compile the necessary information for DCJS for 100 employees within a few hours.

The expenses to distribute meningococcal disease materials to camper parents is limited to overnight camps with campers in attendance for 7 or more consecutive nights and include the cost of printing and mailing. The DOH has prepared the necessary

information and response forms that camps may utilize. The costs for affected overnight camps cannot be estimated as costs will vary depending on the number of campers that materials must be mailed to. It is anticipated that camps will minimize expenses by mailing the required materials along with other information already being mailed such as health forms.

Summer day camp definition, and school and classroom based educational program exemptions:

The amendment to the summer day camp definition updates the current definition in this Subpart to be consistent with recent legislative amendments to the definition in PHL. As prescribed by Chapter 439 of the laws of 2009, the revised definition will not take effect until April 1, 2011. Programs that were not regulated in the past, but meet the revised definition of a summer day camp will have an operating cost increase of the statutory \$200 permit fee (effective 4/1/11), and any additional administrative, staffing, or other costs required for compliance with Subpart 7-2. The cost for newly regulated operators will vary depending on the current level of compliance of the program with Subpart 7-2 requirements and cannot be estimated.

Adding exemptions to the regulation for schools and certain summer classroom based educational programs ensures these programs will have no costs associated with this regulation.

Camp aquatic director (CAD) qualifications:

Children’s camps with bathing facilities may have an initial cost increase of approximately \$60 to \$160 associated with the addition of a training course in lifeguard supervision and management to the minimum qualifications for a CAD. However, future costs for the CAD position may decrease as a result of eliminating the requirement for CADs to maintain a current certification as a lifeguard or progressive swimming instructor. The cost for American Red Cross (ARC) courses are listed in the table below. The estimated future cost savings is between \$30 to \$225 every three years for those that previously obtained or maintained a lifeguard certification to qualify as CAD and between \$100 to \$240 for those who chose to qualify by certifying as a progressive swimming instructor.

Certification Title	Initial Certification Cost	Recertification Cost
Eliminated Certification Requirement		
ARC Lifeguarding	\$220 - \$385	\$90 - \$175 (every three years)
Or		
ARC Water Safety Instructor (Progressive Swimming Instructor)	\$160 - \$400	None – as long as one course is taught in a two-year period.
New Certification Requirement		
ARC Lifeguard Management	\$60 – \$160	\$60 – \$160 (every three years)

Cost to Local Government:

Local governments that operate children’s camps will have the same costs and savings described in the section entitled “Cost to Regulated Parties.”

It is estimated that local health departments (LHDs) invest an average of four staff days a year to inspect and perform other regulatory duties for each overnight camp. Using an average salary of \$50 per hour, the exclusion of each “pre-college” educational program from regulatory oversight as a camp can be viewed as cost savings of

approximately \$1,500 of staff time for each “pre-college” program. It is not known how many existing pre-college programs will no longer be subject to regulation. It is estimated that less than five such programs are currently regulated.

Based on a 2010 survey of LHDs, the amendments to the summer day camp definition will result in an estimated 284 new summer day camps. Of the 284 additional summer day camps, 76 are located within NYS Department of Health District Office jurisdictions. Regulation of 208 camps will impact 36 county health departments and the New York City Department of Health and Mental Hygiene staffing requirements. Because each day camp requires an average of 2.5 of LHD staff days to inspect and perform other regulatory duties, the additional workload statewide is estimated to be \$266,250 using an average hourly salary of \$50 per hour (284 new camps x 2.5 days per camp at \$50 per hour).

Economic and Technological Feasibility:

There are no changes requiring the use of technology.

The proposal is believed to be economically feasible for currently regulated parties because only camps that operate a swimming pool or bathing beach will be impacted, as specified in the Compliance Cost section of this document. The economic feasibility for programs that will now require regulation because they meet the revised definition of a summer day camp cannot be predicted, since the economic feasibility is dependent upon the financial condition of each program and extent to which that program must undertake additional actions to comply with the requirements of this regulation.

Minimizing Adverse Economic Impact:

The proposed rule amends the standards for children's camps to minimize risk to the public health. The proposal takes into account the resources available to camp operators and gives operators until the 2012 camp season to have a CAD obtain certification in a "lifeguard supervision and management" course. Because all children attending camp should be provided with the same level of protection, small businesses or local governments are not exempted from compliance with the regulation. Where possible the rule utilizes performance standards and provides alternatives for compliance instead of prescriptive standards. Examples include training curriculum for CAD, CPR and first aid; camp trip swimming supervision and the use of reflective triangles in addition to flares to warn approaching motorists of the presence of a stopped vehicle. A waiver allowing alternative arrangements that do not meet the provisions of the Subpart but protect the health and safety of the patrons and the public can be granted. Alternatively, should this rule have a substantial adverse impact on a particular facility, a variance, allowing additional time to comply with one or more requirements, can be granted if the health and safety of the public is not prejudiced by the variance. Although exemption from the proposed requirements was considered for small businesses and local governments, the option was rejected because public safety would be compromised.

Small Business Participation and Local Government Participation:

The New York State Camp Safety Advisory Council (nine member council, which includes a representative for municipally operated camps) discussed and provided recommendations regarding the proposed amendments during 14 meetings between 2003 and 2010. In addition, the Council established a workgroup (consisting of representatives from the Council, DOH, Boy Scouts, Girl Scouts, American Red Cross, and camping

industry) to assess the current camp aquatic director requirements and make recommendations for improvement. The proposed amendments for camp aquatic director are largely based on the workgroup's recommendations.

Outreach to interested parties about the proposed regulations was sought on two separate occasions. The first outreach was conducted in June of 2008 and sought comments from the NYS Department of Environmental Conservation, the New York City Department of Health and Mental Hygiene (NYCDOHMH) and 36 county health departments, approximately 150 individuals on the DOH's children's camp interested party list (parents, camper operators, camp directors, etc.), and camping organizations including:

- NYS Parks and Recreation Society (members include recreation and park professionals working for federal, state and local agencies; and local recreation and park advisory board members serving local communities)
- American Camping Association (Upstate New York Section)
- American Camping Association (New York Section)
- Association of Jewish Camp Operators
- Boy Scouts of America
- Girl Scouts of America
- New York State Camp Directors Association
- YMCA

Eighteen comments were received in response to the outreach effort. Most comments received pertained to the experience requirements for camp aquatics director and the proposed amendments were modified to address these concerns.

The second outreach occurred in April and May of 2010 and sought comments from NYCDOHMH and 36 county health departments, interested parties, camping organizations, and local governments. Local governments were contacted by outreach to the Association of Towns, Association of Counties, Conference of Mayors, and NYS Parks and Recreation Society. The outreach contained surveys/questionnaires for local health departments and governments to determine the fiscal impact of the proposed regulations on them. Completed surveys were received from NYCDOHMH and 34 of the 36 county health departments, and four local governments. The four responses from local governments indicated that there would be no fiscal impact on them as a result of the amendments. One interested party submitted comments. Some minor edits were made to the proposed amendments based on comments received.

In 2010, the Department obtained input from representatives of the New York State Association of County Health Officials for the development of the definition of nonpassive recreational activities with significant risk of injury and a guidance document to assist children's program operators and local health departments with determining if a program qualified as summer day camps.

Summary of Rural Area Flexibility Analysis

Types and Estimated Number of Rural Areas:

There are an estimated 356 day camps and 431 overnight camps operating in the 44 counties that have population less than 200,000 and 346 day camps and 113 overnight camps in the nine counties identified to have townships with a population density of 150 persons or less per square mile.

Reporting and Recordkeeping and Other Compliance Requirements:

Reporting and Recordkeeping:

There are no reporting requirements associated with the proposed amendments.

The amendments require camps operators to maintain records of sex offender registry checks for staff and meningococcal meningitis immunization response forms for campers attending camp for seven or more consecutive nights; however, these amendments impose no additional recordkeeping on regulated parties as they incorporate existing Public Health Law (PHL) requirements into the regulation. Camp operators will be required to maintain an additional record pertaining to camp aquatics director certification in a lifeguard supervision and management course.

Other Compliance Requirements:

The summer day camp definition and permit fee amendments are necessary to be consistent with PHL and accurately define a summer day camp in this Subpart.

The proposed amendments exempt “pre-college”, school, and classroom based educational programs because they are not within the intent of the regulation.

References to American Red Cross (ARC) courses are replaced with course curriculum standards for first aid and CPR certifications to better specify the minimum training requirements.

The first aid course accepted for day camps with minimal physical activity was eliminated because these programs will no longer be regulated as a result of amendments to the summer day camp definition.

Camp Aquatic Directors (CAD) minimum experience, certification, and training requirements have been clarified and improved to ensure a CAD will have the knowledge and experience to establish safe swimming programs at camps.

The percentage of 16-year-old lifeguards allowed to supervise the camp’s on-site swimming activities has been increased and may make it easier for camp operators to hire a sufficient number of lifeguards. Bather safety is not compromised because required certifications ensure all lifeguards have the minimum skills and knowledge to effectively supervise swimming and each camp has an aquatics director to supervise the lifeguard staff.

The State Sex Offender Registry checks and meningococcal disease vaccination notification amendments incorporate PHL requirements into the regulation making it

easier for camp operators to identify and comply with requirements to operate a children's camp.

Reflective triangles have been added as an optional warning device to alert approaching motorists of the presence of a stopped camp vehicle. Current standards require flares, which may pose a safety hazard and require special storage consideration.

For camp trips to lifeguarded bathing facilities, an option has been added for camps to provide staff members who possess training in an approved aquatic injury prevention and emergency response course instead of lifeguarding. This option ensures that camp staff has adequate training to oversee camp requirements and eliminates the need for the camp to hire a lifeguard, which is often difficult to do when the camp does not have its own bathing facility.

The wilderness swimming amendment clarifies that lifeguard staff may count toward the number of required CPR certified staff.

Amendments are proposed to respectively eliminate and reduce burdensome fire extinguishing sprinkler systems and floor area requirements of the Uniform Fire Prevention and Building Construction Code (Uniform Code) for certain simple one-story summer camp cabins that are only occupied for a few months a year.

As a result of a change to PHL, an amendment is necessary to accurately identify the PHL section that defines the term “officers” that is referenced.

Professional Services:

There are no professional services required to comply with the proposed amendments.

Compliance Costs:

Cost to Regulated Parties:

The amendment to exclude college level educational programs from regulation as a children’s camp will have cost savings of the \$100 permit fee (\$200 starting April 1, 2011), and any administrative, staffing, or other costs required for compliance with Subpart 7-2 of the SSC for programs no longer requiring regulation.

The amendments for camp trip swimming may result in an estimated cost savings between \$160 to \$225 when a specially trained staff member is utilized instead of hiring a lifeguard.

The amendment for wilderness swimming may result in an estimated cost savings of \$67 to \$120 for training additional CPR staff in instances that the regulation was misunderstood and lifeguards were not counted toward the CPR requirement.

The amendment, which eliminates the Uniform Code requirement for fire-extinguishing sprinkler systems in certain newly constructed camp cabins, will result in cost savings to regulated parties when constructing these cabins. The cost savings will vary depending on each building’s design/layout and water supply. One fire sprinkler design and installation company estimated the cost savings for a camp cabin to range

from \$8,000 to \$12,500 depending on the camp's water supply/system. Additional cost savings, which cannot be estimated, may be associated with the electrical service, fire alarm system, and other unique needs of the cabin associated with a sprinkler system installation.

Summer day camp definition, and school and classroom based educational program exemptions:

Children's programs that now qualify as a summer day camp will have operating cost increases including a statutory \$200 permit fee and any additional costs required for compliance with Subpart 7-2 of the SSC. The cost for newly regulated operators will vary depending on the current level of compliance of the program with Subpart 7-2 requirements and cannot be estimated.

Adding exemptions to the regulation for schools and summer classroom based educational programs ensures these programs will have no costs associated with this regulation.

Sex Offender Registry Checks and Meningococcal Disease Information:

The amendments for staff sex offender registry background checks and the distribution of meningococcal disease information incorporate existing PHL requirements into the regulation and have already been implemented by regulated parties. Costs associated with conducting the sex offender checks are limited to staffing expenses to collect and submit the required information to NYS Division of Criminal Justice Services (DCJS) and will vary depending on the number of names to be submitted and the salary

of the staff person compiling the information. It is anticipated that an entry level staff person earning the minimum wage of \$7.25/hour can compile the necessary information for DCJS for 100 employees within a few hours. DCJS conducts checks of the Registry free of charge.

The expenses to distribute meningococcal disease materials to camper parents is limited to overnight camps with campers in attendance for 7 or more consecutive nights and include the cost of printing and mailing. The costs for affected overnight camps cannot be estimated as costs will vary depending on the number of campers that materials must be mailed to. It is anticipated that camps will minimize expenses by mailing the required materials along with other information already being mailed such as health forms.

Camp aquatic director qualifications:

Children's camps with bathing facilities may have an initial cost increase of approximately \$60 to \$160 associated with the addition of a training course in lifeguard supervision and management to the minimum qualifications for a CAD. However, future costs for the CAD position may decrease between \$30 to \$240 as a result of eliminating the requirement for CADs to obtain or maintain a current certification as a lifeguard or progressive swimming instructor.

There are no costs to regulated parties associated with any other proposed amendment.

Economic and Technological Feasibility:

There are no changes requiring the use of technology.

The proposal is believed to be economically feasible for currently regulated parties because only camps that operate a swimming pool or bathing beach will be impacted, as specified in the Compliance Costs section of this document. The economic feasibility for programs that will now require regulation because they meet the revised definition of a summer day camp cannot be predicted.

Minimizing Adverse Economic Impact on Rural Areas:

The proposed rule amends the standards for children's camps to minimize risk to the public health. The proposal takes into account the resources available to camp operators and gives operators until the 2012 camp season to have a CAD obtain certification in a "lifeguard supervision and management" course. Because all children attending camp should be provided with the same level of protection, rural areas are not exempted from compliance with the regulation. Where possible the rule utilizes performance standards and provides alternatives for compliance instead of prescriptive standards. Examples include training curriculum for CAD, CPR and first aid; camp trip swimming supervision and the use of reflective triangles in addition to flares to warn approaching motorists of the presence of a stopped vehicle. A waiver allowing alternative arrangements that do not meet the provisions of the Subpart but protect the health and safety of the patrons and the public can be granted. Alternatively, should this rule have a substantial adverse impact on a particular facility, a variance, allowing additional time to comply with one or more requirements, can be granted if the health and safety of the public is not prejudiced by the variance.

Rural Area Participation:

The proposed amendments are generally supported by and based in part on the recommendations received from the New York State Camp Safety Advisory Council (nine member council, which includes a representative for municipally operated camps). In addition, outreach for comments from interested parties on the proposed regulations were sought on two separate occasions in 2008 and 2009. Some minor edits were made to the proposed amendments based on comments received.

In 2010, the Department obtained input from representatives of the New York State Association of County Health Officials for the development of the definition of nonpassive recreational activities with significant risk of injury and a guidance document to assist children's program operators and local health departments with determining if a program qualified as summer day camps.

Rural Area Flexibility Analysis

Types and Estimated Number of Rural Areas:

All of the approximate 2,861 (2,283 day camps and 578 overnight camps) regulated children's camps operating in New York State will be affected by the proposed rule. There are an estimated 356 day camps and 431 overnight camps operating in the 44 counties that have population less than 200,000 and 346 day camps and 113 overnight camps in the nine counties identified to have townships with a population density of 150 persons or less per square mile.

Reporting and Recordkeeping and Other Compliance Requirements:

Reporting and Recordkeeping:

There are no reporting requirements associated with the proposed amendments.

The amendments require camps operators to maintain records of sex offender registry checks for staff and meningococcal meningitis immunization response forms for campers attending camp for seven or more consecutive nights; however, these amendments impose no additional recordkeeping on regulated parties as they incorporate existing Public Health Law (PHL) requirements into the regulation. Camp operators will be required to maintain an additional record pertaining to camp aquatics director certification in a lifeguard supervision and management course. All required records are to be maintained at the camp and available for review by the local health departments.

Other Compliance Requirements:

Summer Day Camp Definition:

Chapter 439 of the laws of 2009 amended PHL, Section 1392, revising the definition of a summer day camp in Article 13-B of PHL resulting in a need to amend the SSC to implement the new PHL summer day camp definition.

First Aid and CPR Certification Standards:

The proposed amendments replace references to American Red Cross (ARC) courses with course curriculum standards for first aid and CPR certifications to better specify the minimum training requirements. The ARC first aid course accepted for camps with minimal physical activity was eliminated because these programs will no longer be regulated as a result of amendments to the summer day camp definition.

School and Classroom Based Educational Programs:

As a result of amendments to the summer day camp definition, summer schools and other classroom based programs could be categorized as day camps. The proposed amendments exempt these programs as summer day camps because they are not within the intent of the regulation.

College Level Educational Programs:

The applicability of Subpart 7-2 (Children's Camps) of the SSC to overnight summer college programs for high school students, typically known as "pre-college" programs, has been evaluated and determined to not be within the intent of, or regulation

by, the Subpart. The proposed amendments add college level educational programs provided by accredited colleges to the list of programs exempt from regulation.

Children's Camp Permit Fee:

The permit fee for children's camps is increased from \$100 to \$200 dollars consistent with amendments to PHL Section 1393 (4) by Chapter 439 of the Laws of 2009.

Camp Aquatic Director Qualifications (CAD):

CADs are responsible for establishing and overseeing swimming programs at children's camps. Since 1987, the Department of Health (DOH) has investigated eight drowning incidents that occurred at camps during a swimming activity and identified that in all but one of the incidents the CADs lacked a thorough understanding of lifeguarding management practices, aquatic injury prevention, and/or DOH regulations to prevent drownings. An assessment of the current SSC CAD qualifications and training requirements determined that the regulation does not ensure a CAD will have the knowledge to establish safe swimming programs at camps. As a result, amendments are proposed to modify training requirements and clarify minimum experience and duties of the CAD as follows:

- The experience that is necessary to qualify as a CAD is clarified. The minimum number of weeks of prior lifeguarding experience is established based on the type of bathing facility the experience was obtained. Lifeguards may qualify by having at least two seasons of experience at a children's camp or at least three

- seasons of experience at a non-camp bathing facility that required multiple lifeguards to supervise it.
- Certification in “lifeguard supervision and management” is added to ensure CADs have sufficient training to supervise lifeguard staff and establish an effective bather surveillance system. The curriculum standard for a “lifeguard supervision and management” course is added to Subpart 6-1 (Swimming Pools) and Subpart 6-2 (Bathing Beaches) because all other certification standards for aquatic staff are specified in these Subparts.
 - The requirement for CADs to have current certification as a lifeguard or progressive swimming instructor is removed because these certifications do not enhance a CAD’s ability to establish and oversee a swimming program. A lifeguard is trained to make rescues and supervise patrons while a progressive swimming instructor is trained in how to teach swimming and diving. However, the cognitive knowledge, but not skills performance, are included in “lifeguard supervision and management.” The knowledge of the lifeguarding principles does enhance the CAD’s ability to supervise lifeguard staff.
 - A requirement for reviewing the camp’s safety plan is added to ensure that CADs are knowledgeable in DOH regulations and the camp’s approved policies and procedures for camp swimming activities.
 - The CAD duties have been clarified to only mandate oversight of swimming activities and not other waterfront activities such as boating.

Lifeguard Age Requirement:

Except for wilderness swimming, the existing code requires lifeguards at children's camps to be a minimum of 17 years old, but allows a maximum of 20 percent to be 16 years old. The requirement is an attempt to ensure that lifeguards at children's camps are responsible and will effectively execute the duties of the position. The amendment allows up to 50 percent of required lifeguards to be 16 years old. A lifeguard's training ensures that all certified lifeguards possess the minimum skills and knowledge to effectively supervise swimming. Because children's camps with onsite swimming must have an aquatics director who is a minimum of 21 years old and responsible for directly overseeing the swimming, including the supervision of lifeguard staff, adequate supervision of bathers should not be compromised. The amendment allows camps to utilize more 16-year-old lifeguards, who are often readily available for hire.

Child Safety Act:

Chapter 428 of the Laws of 2008 amended Article 13-B of the PHL to require camp operators to ascertain whether employees and volunteers are listed on the NYS Division of Criminal Justice Services (DCJS) Sex Offender Registry prior to the employee or volunteer commencing work at the camp, and annually thereafter. The proposed amendments incorporate the Child Safety Act requirements of Correction Law, Section 168-b (9) into the regulation making it easier for camp operators to identify and comply with PHL requirements to operate a camp.

Meningococcal Disease:

Chapter 165 of the Laws of 2003 added Section 2167 to the PHL requiring overnight children's camps to distribute meningococcal meningitis disease and vaccination information to parents and collect immunization information for all campers who attend camp for 7 or more consecutive nights. The proposed amendments will incorporate PHL requirements into the regulation, making it easier for camp operators to identify and comply with PHL requirements to operate a camp.

Reflective Triangles:

The existing code requires vehicles used to transport staff or campers to be equipped with flares to warn approaching motorists of the presence of a stopped vehicle. Because flares may pose a safety hazard and require special storage consideration, the proposed amendments adds an option for camps to use reflective triangles that meet Federal Motor Vehicle Safety Standard in lieu of flares to safely and effectively comply with the requirement. See Title 49 CFR Part 571 et seq.

Camp Trip (Off-Site) Swimming:

For camp trips to off-site lifeguarded bathing facilities that are not operated by the camp, the existing code requires camps to provide one camp lifeguard for each 75 campers. The camp lifeguard's primary role is to supervise camper swimming activities and implement the camp's safety plan and is not expected to fulfill necessary lifeguarding responsibilities, since the facility provides lifeguards and has established emergency procedures and bather surveillance systems in place. It has been difficult for camps that do not have on-site aquatic programs and only take a few camp trips each year to hire

lifeguards to meet current regulation. The proposed amendments add an option for camps to provide staff members who possess training in an approved aquatic injury prevention and emergency response course instead of lifeguarding.

Wilderness Swimming:

An amendment is proposed to clarify that lifeguard staff may count toward the number of CPR certified staff that are required for wilderness swimming. The current regulation has been misinterpreted to exclude lifeguards from the required staff to be certified in CPR, which is not the intent of the regulation.

Sleeping Quarters:

Chapter 443 of the Laws of 2009 amended section 378 (1) of the Executive Law to make Subpart 7-2 of the SSC the reference standard for the Uniform Fire Prevention and Building Code (Uniform Code) as it relates to overnight children's camps sleeping quarters. As a result, amendments are proposed to respectively eliminate and reduce fire extinguishing sprinkler systems and floor area requirements of the Uniform Fire Prevention and Building Construction Code (Uniform Code) for simple one-story camp cabins that are only occupied for a few months a year.

Building Code requirements for sprinkler systems in new construction for one and two story transient occupancies and minimum floor area for all sleeping quarters became effective in 2003 when NYS adopted the International Building Code. One of the purposes of a sprinkler system is to provide additional time for occupants to exit a building when there is a fire, the requirement is viewed as unnecessary and overly costly to install in small, single story cabins that take seconds for occupants to exit. The

Uniform Code minimum floor area requirements imposes a new standard on existing buildings, which reduces the number of occupants in each cabin that was previously in compliance with Department of Health occupancy requirements. The proposed amendment for sprinkler systems and minimum floor area were established in consultation with the Department of State and regulated camping industry.

Miscellaneous:

As a result of a change to PHL, an amendment is necessary to accurately identify the PHL section 1392 (4), which defines the term “officers” that is referenced.

Professional Services:

There are no professional services required to comply with the proposed amendments.

Compliance Costs:

Cost to Regulated Parties:

College level educational programs, first aid and CPR certification standards, lifeguard age requirement, reflective triangles, camp trip, wilderness swimming and sleeping quarters:

There is no cost increase to regulated parties associated with the proposed amendments pertaining to college level educational programs, first aid and CPR certification standards, lifeguard age requirement, reflective triangles, camp trip swimming, wilderness swimming, and sleeping quarters.

The amendment to exclude college level educational programs as a type of operation regulated as a children's camp will have cost savings of the \$100 permit fee (\$200 starting April 1, 2011), and any administrative, staffing, or other costs required for compliance with Subpart 7-2 of the SSC for programs no longer requiring regulation. The cost savings associated with changes in administrative, staffing, and other compliance expenses cannot be estimated because changes will vary by program and cannot be anticipated.

The amendments for reflective triangles and camp trip swimming provide camps with an acceptable alternative to existing regulations and do not impose any additional requirements on regulated parties and may result in a cost saving for camp trip swimming activities when a specially trained staff member is utilized instead of hiring a lifeguard. The cost for a training course in aquatic injury prevention and emergency response is estimated to be between \$160 to \$225 less than a lifeguard training course. The amendment for wilderness swimming may result in an estimated cost savings of \$67 to \$120 for additional CPR training for camps in instances that the regulation was misunderstood and lifeguards were not counted toward the CPR requirement.

The amendment, which eliminates the Uniform Code requirement for fire-extinguishing sprinkler systems in certain newly constructed camp cabins, will result in cost savings to regulated parties when constructing these cabins. The cost savings will vary depending on each building's design/layout and water supply. One Capital District based fire sprinkler design and installation company estimated the cost savings for a simple 1,200 square foot camp cabin to range from \$8,000 for a cabin with a municipal water supply to \$12,500 for a cabin with an on-site water supply requiring additional

water storage capacity and pump system. Camps may have additional site specific cost savings, which cannot be estimated, related to the electrical service, fire alarm system, and other unique needs of the cabin associated with a sprinkler system installation.

The amendments, which reduce and clarify the occupant floor area requirements for new and existing sleeping quarters, do not impose any additional costs on the regulated parties. However, they may result in additional revenue for camp operators when constructing certain new camp cabins or in existing camp cabins that local code officials have limited the occupancy to the more restrictive Uniform Standard.

Sex Offender Registry Checks and Meningococcal Disease Information:

The amendments for staff sex offender registry background checks and the distribution of meningococcal disease information incorporate existing PHL requirements into the regulation and have already been implemented by regulated parties. Costs associated with conducting the checks are limited to staffing expenses to submit staff and volunteer names and identifying information, such as date of birth or social security number, to the NYS Division of Criminal Justice Services (DCJS). DCJS conducts checks of the Registry free of charge. The staffing expenses to collect and submit the required information to DCJS will vary depending on the number of names to be submitted and the salary of the staff person compiling the information. However, it is anticipated that an entry level staff person earning the minimum wage of \$7.25/hour can compile the necessary information for DCJS for 100 employees within a few hours.

The expenses to distribute meningococcal disease materials to camper parents is limited to overnight camps with campers in attendance for 7 or more consecutive nights and include the cost of printing and mailing. The DOH has prepared the necessary

information and response forms that camps may utilize. The costs for affected overnight camp cannot be estimated as costs will vary depending on the number of campers that materials must be mailed to. It is anticipated that camps will minimize expenses by mailing the required materials along with other information already being mailed such as health forms.

Summer day camp definition, and school and classroom based educational program exemptions:

The amendment to the summer day camp definition updates the current definition in this Subpart to be consistent with recent legislative amendments to the definition in PHL. As prescribed by Chapter 439 of the laws of 2009, the revised definition will not take effect until April 1, 2011. Programs that were not regulated in the past, but meet the revised definition of a summer day camp will have an operating cost increase of the statutory \$200 permit fee (effective 4/1/11), and any additional administrative, staffing, or other costs required for compliance with Subpart 7-2. The cost for newly regulated operators will vary depending on the current level of compliance of the program with Subpart 7-2 requirements and cannot be estimated.

Adding exemptions to the regulation for schools and certain summer classroom based educational programs ensures these programs will have no costs associated with this regulation.

Camp aquatic director (CAD) qualifications:

Children's camps with bathing facilities may have an initial cost increase of approximately \$60 to \$160 associated with the addition of a training course in lifeguard

supervision and management to the minimum qualifications for a CAD. However, future costs for the CAD position may decrease as a result of eliminating the requirement for CADs to maintain a current certification as a lifeguard or progressive swimming instructor. The cost for American Red Cross (ARC) courses are listed in the table below. The estimated future cost savings is between \$30 to \$225 every three years for those that previously obtained or maintained a lifeguard certification to qualify as CAD and between \$100 to \$240 for those who chose to qualify by certifying as a progressive swimming instructor.

Certification Title	Initial Certification Cost	Recertification Cost
Eliminated Certification Requirement		
ARC Lifeguarding	\$220 - \$385	\$90 - \$175 (every three years)
Or		
ARC Water Safety Instructor (Progressive Swimming Instructor)	\$160 - \$400	None – as long as one course is taught in a two-year period.
New Certification Requirement		
ARC Lifeguard Management	\$60 – \$160	\$60 – \$160 (every three years)

Economic and Technological Feasibility:

There are no changes requiring the use of technology.

The proposal is believed to be economically feasible for currently regulated parties because only camps that operate a swimming pool or bathing beach will be impacted, as specified in the Compliance Cost section of this document. The economic feasibility for programs that will now require regulation because they meet the revised definition of a summer day camp cannot be predicted, since the economic feasibility is

dependent upon the financial condition of each program and extent to which that program must undertake additional actions to comply with the requirements of this regulation.

Minimizing Adverse Economic Impact on Rural Areas:

The proposed rule amends the standards for children’s camps to minimize risk to the public health. The proposal takes into account the resources available to camp operators and gives operators until the 2012 camp season to have a CAD obtain certification in a “lifeguard supervision and management” course. Because all children attending camp should be provided with the same level of protection, rural areas are not exempted from compliance with the regulation. Where possible the rule utilizes performance standards and provides alternatives for compliance instead of prescriptive standards. Examples include training curriculum for CAD, CPR and first aid; camp trip swimming supervision and the use of reflective triangles in addition to flares to warn approaching motorists of the presence of a stopped vehicle. A waiver allowing alternative arrangements that do not meet the provisions of the Subpart but protect the health and safety of the patrons and the public can be granted. Alternatively, should this rule have a substantial adverse impact on a particular facility, a variance, allowing additional time to comply with one or more requirements, can be granted if the health and safety of the public is not prejudiced by the variance. Although exemption from the proposed requirements was considered for rural areas, the option was rejected because public safety would be compromised.

Rural Area Participation:

The New York State Camp Safety Advisory Council (nine member council, which includes a representative for municipally operated camps) discussed and provided recommendations regarding the proposed amendments during 14 meetings between 2003 and 2010. In addition, the Council established a workgroup (consisting of representatives from the Council, DOH, Boy Scouts, Girl Scouts, American Red Cross, and camping industry) to assess the current camp aquatic director qualifications and make recommendations for improvements. The proposed amendments for camp aquatic director are largely based on the workgroup's recommendations.

Outreach to interested parties about the proposed regulations was sought on two separate occasions. The first outreach was conducted in June of 2008 and sought comments from the NYS Department of Environmental Conservation, the New York City Department of Health and Mental Hygiene (NYCDOHMH) and 36 county health departments, approximately 150 individuals on the DOH's children's camp interested party list (parents, camper operators, camp directors, etc.), and camping organizations including:

- NYS Parks and Recreation Society (members include recreation and park professionals working for federal, state and local agencies; and local recreation and park advisory board members serving local communities)
- American Camping Association (Upstate New York Section)
- American Camping Association (New York Section)
- Association of Jewish Camp Operators
- Boy Scouts of America

- Girl Scouts of America
- New York State Camp Directors Association
- YMCA

Eighteen comments were received in response to the outreach effort. Most comments received pertained to the experience requirements for camp aquatics director and the proposed amendments were modified to address these concerns.

The second outreach occurred in April and May of 2010 and sought comments from NYCDOHMH and 36 county health departments, interested parties, camping organizations, and local governments. Local governments were contacted by outreach to the Association of Towns, Association of Counties, Conference of Mayors, and NYS Parks and Recreation Society. The outreach contained surveys/questionnaires for local health departments and governments to determine the fiscal impact of the proposed regulations on them. Completed surveys were received from NYCDOHMH and 34 of the 36 county health departments, and four local governments. The four responses from local governments indicated that there would be no fiscal impact on them as a result of the amendments. One interested party submitted comments. Some minor edits were made to the proposed amendments based on comments received.

In 2010, the Department sought input from representatives of the New York State Association of County Health Officials for development of the definition of nonpassive recreational activities with significant risk of injury and a guidance document to assist

children's program operators with determining if their programs qualified as summer day camps.

Job Impact Statement

No Job Impact Statement is required pursuant to Section 201-a (2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will have no impact on jobs and employment opportunities, because it does not result in an increase or decrease in current staffing level requirements. The amendment will require some additional training of existing facility staff at camps with on-site aquatic programs. The minimal task associated with the distribution and collection of meningococcal disease materials, and sex offender registry checks can be completed by existing camp staff.

Assessment of Public Comment
Amendments to Subpart 7-2 of the State Sanitary Code

In response to the March 30, 2011 notice in the State Register, a total of 41 written comments were received during the comment period. Written comments were received from one town, two counties, NYCDOHMH, two legislators, four camp associations and from over 30 private individuals. Many comments addressed multiple topics.

The following reflects the concerns expressed by those who commented and the Department's response:

Summer Day Camp Definition and Activities:

Comments:

The majority of comments received did not relate to the proposed regulations, but guidance that the Department (also referred to herein as "DOH") had withdrawn. Those comments largely pertained to a misconception that the guidance restricted or prohibited certain activities at day camps and other children's recreation programs/playgrounds. Some commenters questioned the appropriateness of categorizing certain activities as "having a significant risk for injury" in an associated guidance document and others said that there should be no new regulations and/or a reduction in regulations pertaining to indoor and outdoor camps.

Two comments questioned the legal authority for the Department to promulgate the proposed regulations. Other commenters indicated the definition of nonpassive recreation activity with a significant risk of injury (NPRASRI) was too vague, difficult to assess, or inflexible. One commenter indicated that additional DOH guidance to implement the day camp definition was necessary to clarify the types of activities considered to be NPRASRI and expressed concern that the Department had rescinded guidance. Also, the commenter suggested that local health departments have flexibility to determine the types of activities that are NPRASRI instead of limiting the authority to the Department.

Another commenter expressed concern that the proposed exemption for classroom based educational programs does not specifically exclude traveling as part of the program.

A commenter expressed concern that few new camps will actually be subject to DOH oversight given the exemption for single-purpose activities and activities not categorized as NPRASRI.

DOH Response:

The majority of the comments did not relate to the proposed regulations, but guidance that has been withdrawn by the Department. Proposed amendments to the regulation do not restrict, limit, or mandate activities that a camp or other children's programs can or cannot conduct. The amendments also do not remove current exemptions for activities at

unscheduled or drop-in neighborhood-center settings, or single purpose athletic events or programs.

The proposed summer day camp definition is consistent with the Public Health Law (“PHL”), and the Department has made some minor clarifying edits to the definition. The ability to determine the types of activities that are NPRASRI is intentionally limited to the Department to ensure consistent implementation throughout New York State.

It is unnecessary to include a travel prohibition from the proposed exemption for classroom based education programs. Travel for the purpose of recreation is neither prohibited, nor considered part of the classroom portion of the program. Educational programs with travel and recess beyond the specified parameters do not qualify for the exemption.

We note that the inclusion of indoor camps, which meet certain criteria, in the definition of a summer day camp is mandated by PHL.

Permit Fee:

Comment:

Five comments were received which addressed permit fees and suggested that the regulation was intended to enhance revenue.

DOH response:

No change is proposed. The fee associated with a permit is established by the PHL. The Department of Health estimates that the cost to regulate a day camp is significantly more than what the amount that the permit fee generates. The proposed amendments do not alter the current exemption from the permit fees for municipal, charitable, philanthropic, and religious camps.

Exemption for Municipal Program:

Comment:

Others expressed concern that the regulations were burdensome and could result in the elimination of municipal recreational programs. The commenters suggested that the Department should consider an exemption for municipalities from the regulations. Two also requested a year delay for municipal programs and one that municipal programs be provided more flexibility.

DOH Response:

No change is proposed. The proposed amendment to the day camp definition is mandated by PHL to provide the same level of protection to children participating in recreational activities indoors as would be provided when these activities are conducted outdoors. The amendments do not broaden regulatory oversight to new outdoor programs or remove current exemptions for activities at unscheduled or drop-in neighborhood-center settings, or single purpose athletic events and programs.

Department of Health's analysis of past incidents at municipal recreation programs has demonstrated the benefit and need to continue to regulate municipal programs that meet the criteria for a day camp. The children's camp regulations have applied to municipally-operated outdoor day camps since 1984. Prior to 1984, municipally-operated summer camps were exempt from the requirements of the PHL and State Sanitary Code. Chapter 314 of the Laws of 1984 eliminated the exemption.

Costs to Local Health Departments to Implement the Day Camp Definition:

Comment:

One county department of health questioned whether the amendments to the summer day camp definition would result in an estimated 284 new summer day camps coming under the regulations. The commenter estimated that the regulations would capture an additional 150-260 summer day camps in just one county alone and create an inadequate staffing situation with respect to overseeing summer camp program functions.

DOH Response:

The estimated increase in the number of new summer day camps was based on a 2010 survey of local health departments. The regulations implement the PHL change, which is to apply the same level of regulatory oversight to indoor summer programs as outdoor programs. The Department does not believe that excessive numbers of new camps will suddenly require oversight.

Camp Aquatic Director

Comments:

One letter of comment pertained to the Camp Aquatic Director (CAD) qualifications, e.g. experience, recruitment, etc.

DOH Response:

No change is proposed to the current amendment. CADs are responsible for establishing and overseeing swimming programs at children's camps and not boating or other aquatic programs. The Department's investigation of drowning incidents that occurred at camps during a swimming activity identified that in all but one of the incidents since 1987 the CADs lacked a thorough understanding of lifeguarding management practices, aquatic injury prevention, and/or DOH regulations to adequately oversee the camps swimming program and staff. The proposed amendments were established with water safety experts and the camping industry to ensure that CADs will have the necessary knowledge to establish safe swimming programs. Training or experience as a progressive swimming instructor or in boating does not provide the necessary knowledge.

The current regulation is already protective for boating and other aquatic activities in that a competent activity leader must oversee each activity being conducted. A CAD may oversee boating and other activities in which he/she is competent. Applicants with out-of-state experience can qualify for a variance as a CAD if they demonstrate an equivalent level of experience as a NYS CAD.

Camp Cabin Comment:

Comment:

One comment expressed concern that the minimum floor area for altered or renovated sleeping quarters that do not qualify as a camp cabin is being increased to 50 square feet per occupant. The comment also recommended that porches and exterior hallways should be included in the calculation of the minimum floor area.

DOH Response:

No change is proposed to the current amendment. Department of State Uniform Fire Prevention and Building Construction Code (Uniform Code) establishes criteria for renovation and alteration and includes the minimum square footage standards for sleeping quarters that do not qualify as camp cabins. The proposed amendments make the children's camp regulations consistent with the Uniform Code.

Guidance used as regulation:

Comment:

One letter noted that agencies should avoid using guidelines unless absolutely necessary.

DOH Response:

The PHL defines a camp to include nonpassive activities with a significant risk for injury (NPASRI) and required the Department to define the term in the regulation. The regulation defines NPASRI and includes criteria that activities must meet to be considered NPRASI. Any guidance that will be provided will not re-define the law or regulation. It will provide information to assist programs and to otherwise answer frequently asked questions.

Dental Mouth Guard:

Comment:

One commenter, a dentist, proposed adding an additional requirement for mouth guards to be worn for all softball activities.

DOH Response:

No change is proposed to the current amendment. At this time, children's camps regulations do not specify safety equipment standards for sports; however, the regulation requires camp operators themselves to develop and implement a written safety plan that must address safety requirements for all activities at the camp, including required safety equipment.

Comment:

One comment recommended that the Department add pertussis to the list of immunization records that must be kept on file for each camper.

DOH Response:

The Department intends to add pertussis to required immunization records the next time the regulation is amended.