



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Report From Agency

DATE: June 7, 2022

TO: The Honorable Chris Kapenga
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 217 West, State Capitol
PO Box 8953
Madison, WI 53708-8953

FROM: Randy Romanski, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Clearinghouse Rule 21-109 Final Draft Rule repealing and recreating ATCP 78 relating to the regulation of recreational and education camps.

Proposed Rule

The proposed rule is attached.

Reference to Applicable Forms

There are no applicable forms.

Fiscal Estimate and EIA

The fiscal estimate and EIA are attached.

Detailed Statement Explaining the Basis and purpose of the Proposed Rule, Including How the Proposed Rule Advances Relevant Statutory Goals or Purposes

The department and its agent local health departments combined license approximately 221 recreational and educational camps throughout the state. The estimated direct annual Wisconsin economic impact of these camps, based on the 2020 American Camp Association Wisconsin Camp Economic Impact Findings Report, is 5,003 employees and \$109.2 million in labor income. Wisconsin recreational and educational

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camps have a rich history, with 73% in operation for more than 50 years. A recreational and educational camp holds supervisory responsibility for campers who stay overnight using temporary and permanent structures where food or lodging are provided. Camps also conduct planned program activities for the primary purpose of providing indoor or outdoor group living experience for campers. The activities meet social, recreational, spiritual, and educational objectives, and are offered during one or more seasons of the year.

The department is proposing to modernize ch. ATCP 78 with a significant overhaul of the definitions section, modernization of health services qualifications and data management options, updating of the licensing and fee structure, and enhancement of provisions ensuring camper health, safety and security through camp staff background checks and camper sexual abuse prevention training. Rule revisions also support safe camp operations by addressing prevention and control of diseases spread by animals such as mosquitoes, bats, and ticks, along with provision of safe food and drinking water, both on premises and during primitive camping activities. Modernization also reflects inclusion and equity considerations with the revision of pronoun use to terms like “camper,” and “their,” in place of “he” or “she.”

The proposed modernized license and fee model will promote fairness to small business, with fees that will correspond to the number and type of camp experiences offered, through a tiered model. Camps would be placed into simple, moderate, or complex categories, in place of the existing one-size-fits-all model. More complex camps, which generally are larger operations, would pay a higher license fee. In addition, the licensing structure accommodates additional hospitality activities such as lodging, retail food service and camping offered to families and other adult guests within the confines of the recreational and educational camp, utilizing the same camp structures. When a camp adds hospitality to its category it does not have to meet the normal requirements for health and supervision when providing the hospitality activities, i.e. when the recreational and educational camp is only used for families or for non-developmentally disabled adults. Obtaining the proposed license is much less expensive than obtaining the additional applicable licenses separately. Licensing fees have not increased since 2007, but basing the licensing fee on risk and hospitality activity will help to moderate the impact of a fee increase. The modernized license and fee model will include six possible categories: simple, simple with hospitality, moderate, moderate with hospitality, complex, complex with hospitality.

Users of a recreational and educational camp coming as an organized group are known by the American Camp Association as a ‘rental group’ so that standardized terminology has also been included in this revised rule, again to create greater consistency. A newly created section also outlines the use of a written agreement between a camp and each rental group to ensure accountability to meet health and safety standards of campers on behalf of the licensee.

Camp staff are responsible for camper health and wellness, including direct oversight of camper medications, allergies, and urgent health treatment during their stay. In other words, the camp staff function as temporary parents or guardians of their campers. The revised rule will modernize the requirement for the bound-book medication log and thereby save time for the department, its local health department agents, and industry stakeholders by allowing camp operators to use the more efficient electronic systems widely available for medication documentation and data management. This update will allow existing medication bound book variances to sunset and decrease the need for new variance applications. This flexibility will simultaneously reduce the record-keeping burden on small business and

drastically lower department time to process variance requests. The rule revision will also eliminate the existing requirement for camps to write and follow policies for EMS-15 minutes response time. Furthermore, the rule revision reduces the additional time and resources involved with resolving confusion created by the existing rule not keeping pace with changes that have occurred with camps and camper demographics over the years.

The proposed ch. ATCP 78 also seeks to streamline camper health requirements reflecting the variety of overnight accommodations made available to campers by the industry as both permanent and open air sleeping experiences. The proposed rule simplifies life safety and public health standards by removing the cubic footage by age provisions. This update has a positive impact on stakeholders by allowing for greater flexibility in setting cabin capacity and bed layout configurations while also promoting the reduction of respiratory illness.

Summary of Public Comments and the Department’s Responses, Explanation of Modifications to Proposed Rules Prompted by Public Comments

Public Hearing Locations

The department held five public hearings around the State. Following the public hearings, the hearing record remained open until March 11, 2022.

Date and Time	Location
Tuesday, February 15, 2022 11:00 a.m. to 2:00 p.m.	Wisconsin State Office Building, Room 129 718 W. Clairemont Ave., Eau Claire, WI
Wednesday, February 16, 2022 11:00 a.m. to 2:00 p.m.	DWD - Marathon County Job Center, 731 North 1st St., Oak Conference Room, Suite #4000, Wausau, WI 54403
Thursday, February 17, 2022 11:00 a.m. to 2:00 p.m.	Division of Public Health Regional Office 2187 N. Stevens Street, Rhineland, WI
Wednesday, March 2, 2022 11:00 a.m. to 2:00 p.m.	Prairie Oak State Office Building, Room 106 2811 Agriculture Drive, Madison, WI
Thursday, March 3, 2022 11:00 a.m. to 2:00 p.m.	Virtual (use this link to join the hearing by computer or mobile app. To join by phone, call (608) 571-2209 and use ID number 564-045-743).

List of Public Hearing Attendees and Commenters

The following is a complete list of people who attended the public hearings or submitted comments on the proposed rule during the public comment period, their position taken, and whether they provided written or oral comments.

Commenter #	Name and Address	Position Taken (Support or Opposed)	Method of Commenting (Oral or Written)
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1.	Dave Green, Director Northern Grace Youth Camp 311 South Lafayette Street Shawano, WI 54166 920-785-4095 dave@ngyc.org	Favor Part and Oppose Part	Oral
2.	Scott Domino, Director Support Services Boy Scouts of America Bay Lakes Council 715-490-2241	Support	NA
3.	Eric Muench, Program Director Chippewa Valley Council #637 710 S. Hastings Way Eau Claire, WI 54701 715-598-9299 Direct Eric.Muench@scouting.org	Support	Oral
4.	Audrey Oliver, Director Consulting, Presidium Inc. 2225 E Randol Mill Rd, Suite 630 Arlington, TX 76011 817.801.7773, ext. 139 aoliver@praesidiuminc.com	No Position	Written
5.	Brian Jorata, WI DATCP 3044 Sorenson Road Rhineland, WI 54501 Brian.jorata@wisconsin.gov	No Position	Oral
6.	Paula Lauer, RN Wisconsin Lions Camp 3834 County Road A Rosholt, WI 54473 plauer@wisconsinlionscamp.com	Support	Oral
7.	Andrea Yenter Wisconsin Lions Camp 2992 Cedar Rd Rosholt, WI 54473 ayenter@wisconsinlionscamp.com	Support	Oral
8.	Andrew Templeman 210286 Crooked Lake Dr. Hatley, WI 54440 andrew@crosswayscamps.org	No Position	NA
9.	Ted Tuchalski, WI DATCP Thaddeus.Tuchalski@wisconsin.gov	No Position	Written
10.	Jeff Hoeben	No Position	Oral

	Camp Gray E10213 Shady Ln Rd Reedsburg, WI 53959 jeff@campgray.com		
11.	Kelsey Klaus Phantom Ranch Bible Camp W309510910 CTY RD I Mukwonago, WI 53149 kelsey@phantomranch.org	Support	Oral
12.	Dan Mayer Phantom Ranch Bible Camp W309510910 CTY RD I Mukwonago, WI 53149	Support	NA
13.	Mike McNally DSPA 141 NW Barstow Waukesha, WI 53188 michaelmcnally@wisconsin.gov	No Position	NA
14.	Eric Knueve Bethel Horizons 312 Wisconsin Ave. Madison, WI 53703 ericknueve@bethelhorizons.org	No Position	NA
15.	Reed McRoberts, DATCP 2801 Agriculture Dr. Madison, WI Reed.mcroberts@wisconsin.gov	No Position	Oral
16.	Mary Fried Camp Agawak 7851 Agawak Rd Minocqua, WI 54548 fun@agawak.com	Support	Oral
17.	Andrew Schlensky North Star Camp Hayward, WI	Support	NA
18.	Pat Soldan Camp Manito-wish YMCA Boulder Junction, WI	No Position	NA
19.	Ryan Olson ABEE, Inc. Holmen, WI	Support	NA
20.	Rachel Swedberg Girl Scouts of the Northwestern Great Lakes	No Position	NA

	Appleton, WI		
21.	Darrie Nelson Riverside Bible Camp 6304 County Road DD Amherst, WI 54406 Darrie16@gmail.com	No Position	NA
22.	Emily Gilmore Minikani Retreats and Environmental Education Director YMCA Camp Hubertus, WI	Support	NA
23.	Izzy Reilly Phantom Lake YMCA Camp Mukwonago, WI	No position	NA
24.	Amanda Schellinger Carroll University Waukesha, WI	Support	Oral
25.	Jesse Klosterboer Executive Director Sugar Creek Bible Camp Ferryville, WI	No Position	Oral
26.	Darin Holden Camp Anokijig Plymouth, WI	Support	Oral
27.	Jody Heimos Edwards YMCA Camp East Troy, WI	No position	Written
28.	Josh Kraemer Nativity Jesuit Academy Camp Thunderhead Mercer, WI	Support	NA
29.	Taylor Broadbridge Camp Deerhorn Rhineland, WI	Support	Written
30.	Adam Kaplan Camp Nebagamon Lake Nebagamon, WI	Support	NA
31.	JoAnne Trimpe Towering Pines and Woodland Camps Eagle River, WI	No Position	Oral
32.	Lindsay Benaszkeski Portage County Health and Human Services Stevens Point, WI	Support	Oral

33.	Marie Brick, RN	Support	NA
34.	Jason Noyes Carroll University Waukesha, WI	Support	NA
35.	Janelle Shumaker Army Lake Camp, The Salvation Army East Troy, WI	Support	Oral
36.	Sharon Cook Crossways Camping Ministries Appleton, WI	Support	Oral
37.	Gabe Chernov Birch Trail Camp Minong, WI	Support	Written
38.	Jami Shlensky Kastle Camp Marimeta for Girls Eagle River, WI	No Position	Written
39.	Emily Bumberg Asst. Director Camp Marimeta for Girls Eagle River, WI	No Position	NA
40.	Jenna Ouradnik DATCP	No Position	NA
41.	Scott Topal Camp Ramah Conover, WI	No Position	NA
42.	Hannah Johnson Phantom Lake YMCA Camp Mukwonago, WI	No Position	NA
43.	Jason Feldgreber Camp Menominee Eagle river, WI	No Position	NA
44.	Ben Hoffman Camp Manito-wish YMCA Boulder Junction, WI	No Position	NA
45.	Cliff Lissner Chippewa Ranch Camp Eagle River, WI	No Position	NA
46.	Lisa Freeman Girl Scouts of Northwestern Great Lakes Appleton, WI	No Position	NA
47.	Sandra Weber	No Position	NA
48.	Andy Bachmann, Director	No Position	Written

	Camp Highland for Boys Sayner, WI		
49.	Troy Sprecker, Director, Bureau of Food and Recreational Business, Division of Food and Recreational Safety Troy.sprecker@wisconsin.gov	No Position	Written
50.	Sarah Resch Executive Director Camp Whitcomb/Mason Boys and Girls Clubs of Greater Milwaukee Hartland, WI 53029 262-538-1190 Sarah.resch@bgcmilwaukee.org	Support	Written
51.	Stephanie Hanson, Director Camp Nebagamon Lake Nebagamon, WI	No Position	Written
52.	Cathy Statz, Education Director Wisconsin Farmers Union Camp Director WFU Kamp Kenwood Chippewa Falls, WI 54729 cstatz@wisconsinfarmersunion.com	Support	Written
53.	Fran & Jordan Shiner Owners/Directors Camp Horseshoe Rhineland, WI fun@camphorseshoe.com	No Position	Written
54.	Hasim Dawkins, Central Region Director On behalf of the American Camp Association hdawkins@acacamps.org	Support	Written

Public Hearing Comments and Department Responses

As discussed below, the department on many occasions made substantive changes based on industry and local health department feedback. Those recommendations were incorporated into the revised final rule.

Rule Provision	Public Comment	Department Response
General	The health service requirements make sense. (3)	The department acknowledges the support for the proposed rule.
General	Code revision has been a long time coming and the commenters expressed thanks for industry and	The department acknowledges the support for the proposed rule.

	agent health departments being involved in the rulemaking process. (7), (15), (32), (44), (52), (54)	
General	Thanks for being open to this. From everything our staff has seen over the past year or so, you've graciously worked WITH the camp professionals on this legislation, across what are by nature very diverse types of operations. Thanks for all your patience and obvious care for these ministries. Dare I say it gives us faith in good government! (25)	The department acknowledges the support for the proposed rule.
General	Thanks for all the work on the definitions. Super helpful for those of us who don't read state code very often. (36)	The department acknowledges the support for the proposed rule.
General	The code revision will be a positive update for our camp and a much needed industry improvement. Camps now have the opportunity to add-on hospitality to our license which allows us to operate at a higher level year round. (50), (54)	The department acknowledges the support for the proposed rule.
General	Seeking clarification on which types of user groups the health and medication requirements would apply to. They find this requirement important for medical/treatment permissions if there is a school group with a few teachers who are going to be leading. Most groups are families coming for a weekend group and parents are with the kids. Not billed as family camp, recruited as group rental. They would fall under that category of having to get permissions, even though the parent was here on site. Is that what the part of the code is saying? Or would they be considered a family group? (26)	This comment addresses many areas throughout the proposed rule, but in general, the requirements for health histories and medication administration documentation only apply to groups under the definition of a recreational and educational camp, under the new definition for camp. Adult and family groups are now a part of the new hospitality activity definition. The health services and supervision areas in ATCP 78, do not apply.

ATCP 78.03 (13)	Clarification regarding when does a visiting parent become a volunteer or staff member? (3)	<p>The department agrees additional clarification is needed and proposes the following language.</p> <p>ATCP 78.03 (13) “Camp staff” means paid or unpaid personnel involved with camp operations. Camp staff does not mean a parent or guardian that accompanies a child to camp as a participant and does not have unsupervised activity with other campers.</p>
ATCP 78.03 (14)	Suggested that definition of camper be clarified. Within the definition, who is listed to give care and supervision? Is it we as an organization, rental group, or parents? (26)	<p>The department agrees and proposes the following changes to the proposed rule.</p> <p>ATCP 78.03 (14) "Camper" means an individual under the care and supervision of the camp or a rental group that has a written agreement with the camp and includes all of the following: (a) a minor child. (b) An adult with developmental disability. (c) Children, youth and adults under legal guardianship or court directed conservatorship.</p>
ATCP 78.03 (28)	Firearm definition clarification, please provide more examples of what is included and excluded. (1)	<p>The department agrees with comment to add clarification to the definition of “firearm” and proposes the following language.</p> <p>ATCP 78.03 (28) “Firearm” means a gun, pistol, or rifle from which a projectile can be discharged, including a pellet gun, air rifle and BB gun. “Firearm” does not include “nerf type” or paintball guns.</p>
ATCP 78.03 (40)	Consider language from BSA to expand the definition of low element. (15)	<p>The department reviewed BSA language on the definition of low element and proposes the following changes.</p> <p>ATCP 78.03 (40) “Low element” means equipment installed for a challenge course activity in which the participant is spotted if needed by other persons in order to limit the risk of an injurious fall and the use of a life safety system is not required including balancing on a low beam, walking across a</p>

		pole while holding a rope, or activities involving such factors as strengthening, agility, balancing, team work, climbing on boulders or horizontal climbing walls no higher than the climber’s shoulder height, and problem solving.
ATCP 78.03 (49)	Consider adding a definition for playground. (15)	<p>The department agrees and proposes a new definition.</p> <p>ATCP 78.03 (49) “Playground” means an area used for unfacilitated activity including outdoor play or recreation by campers with equipment including slides, play sets, horizontal bars and swings.</p> <p>The department in creating a definition for a playground, used the word “unfacilitated” in the definition to describe camper activity. This triggered a change to the definitions of high and low element to “facilitated” to distinguish the difference between challenge course and playground activity.</p>
ATCP 78.03 (62)	Clarification if the agreement is for all rental groups or just for groups with only children. (14)	<p>Rental groups for adults and families are included under the section for hospitality activity because they do not provide programming to campers as defined in the proposed rule. The department clarified the definition of rental group to include activities or services for campers.</p> <p>ATCP 78.03 (62) “Rental group” means another group or program that has a written agreement to rent or use a licensed camp’s facilities, and perhaps some services, to operate their own camping program or retreat for campers. The group may be from within the camp’s parent organization.</p>
ATCP 78.03 (74)	Concerned about price and training availability for horsemanship certification, archery and other specialized activities. (29), (1), (31), (25)	<p>The department acknowledges the commenters concerns, but the definition for “trained adult” already allows for documented training or experience in a specific area or field in lieu of certification. The only area in the proposed rule that requires certification or training is for camps that offer challenge course activities.</p>

		<p>This requirement had widespread industry stakeholder support.</p> <p>The department recommends no change.</p>
ATCP 78.06 (2) (a) 2.	<p>Is the proposed plan review requirement separate from the building submittals that already take place? What criteria will they use? Seems like an additional step for camps when there is already a process at the state level. (10) (27)</p>	<p>The department acknowledges the commenters concerns.</p> <p>ATCP 78.06 (2) (a) 2., only requires a copy of the plans and specifications drawn to scale or a drawing indicating distance of separation measured in feet in accordance with the applicable requirements of this chapter. The proposed plan review requirement is a separate process from the plan submittal to other agencies. This provides an opportunity for the department to consult with the operator to verify compliance with ATCP 78 requirements only, prior to construction.</p> <p>The department recommends no change.</p>
ATCP 78.06 (1) (b)	<p>I would like to see “modifies an existing building” more clearly defined. I am wondering if this would require plan approval from the department if we simply increased the size of a door opening for instance. I am guessing the plan approval is only meant for larger modifications such as doubling the size of a building, but it is unclear what type of modification would require plan approval from the department. (51)</p>	<p>The department’s plan review process involves the relationship of where structures are placed within the camp in relation to water and sanitary facilities within ATCP 78 requirements. However, this does not supersede other agency plan review requirements.</p> <p>The department proposes the following clarification.</p> <p>ATCP 78.06 Plan review. (1) APPROVAL REQUIRED. An operator shall obtain plan approval from the department or its agent before any of the following occurs: (b) Modifications. The operator modifies a camp by adding or moving a structure that was subject to a previous plan review by the department or its agent.</p>
ATCP 78.07 (1) (a) 6. and 7.	<p>Our University dining operates year-round, the proposed fee structures include retail food license</p>	<p>No additional retail food license is required to the commenter’s question and the department proposes to add examples, to</p>

	<p>whereas university's is separate. Is there flexibility for organizations that have those things in a separate capacity and what those bundled license fees would look like?</p> <p>Would like more clarity on what requirements that need to be meet for hospitality activities. (24) (36)</p>	<p>provide further clarification on hospitality activities as follows:</p> <p>ATCP 78.07 (1) (a) 6. Note: An example when an additional retail food license is required. A college campus kitchen that prepares and serves food to campers. The campus also has additional food service establishments that operate solely independently from the kitchen that serves campers. These independent food service operations would be required to obtain a separate retail food establishment license.</p> <p>Note: An example when additional recreational licenses are required. A camp that has lodging or campground facilities that are exclusively rented to adults and families and are not used by campers. These lodging or campground facilities would be required to hold a separate lodging or campground license.</p> <p>ATCP 78.07 (1) (a) 7. ... When the premises of a camp is used for hospitality activity, the operator is not required to meet the following sections: 78.16, 78.21, 78.25, 78.26, 78.27, 78.28, 78.29 and 78.32....</p> <p>Note: An example when an additional retail food license is not required. A university campus kitchen prepares and serves food to campers and campus students, because the kitchen does not solely operate independently but in conjunction with student food service, no additional retail food establishment license is required.</p> <p>Note: An example when an additional retail food license is not required. A camp kitchen provides food to campers, but also provides food service to other adult or family groups that may be utilizing the camp premises, because the kitchen does not solely operate</p>
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		<p>independently but in conjunction with other food service, no additional retail food establishment license is required.</p> <p>Note: An example when additional recreational licenses are not required. A camp has lodging or campground facilities that are rented to adults and families and are also used by campers. These lodging or campground facilities would not be required to hold a separate lodging or campground license.</p> <p>Note: More information on the applicable administrative rule requirements for hospitality activities may be obtained by contacting the department by e-mail datcpdfsrec@wisconsin.gov or contact the bureau of food and recreational businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.</p>
ATCP 78.08	Would be nice not to have a second license to have more relaxed regulation for our groups. (1)	<p>The department has addressed this through the hospitality add-on component in the proposed licensing structure.</p> <p>The department recommends no change.</p>
ATCP 78.16	Appreciate the new language that addresses rental group requirements. (7)	The department acknowledges the support for the proposed rule.
ATCP 78.16	Appreciate the new language that addresses rental group requirements. (7)	The department acknowledges the support for the proposed rule.
ATCP 78.18 (6) (b)	I think the “daily” cleaning and sanitizing is logistically extremely difficult for some camps. (51)	<p>The department agrees with the comment and proposes the following language.</p> <p>ATCP 78.18 (6) (b) Water containers for reuse. Reusable individual water containers shall be cleaned as often as necessary or when returning from primitive camping trips.</p>
ATCP 78.20 (1) (b)	Consider a way to simplify designation of toilets similar to the	The department agrees and proposes the following changes.

	way shower facilities are addressed. (15)	<p>ATCP 78.20 (1) (b) Ratio. 1. A camp shall provide a minimum of one toilet and one handwash facility for every 10 campers and staff or fraction thereof.</p> <p>2. The camp operator shall designate toilet facilities based on the attendance at the camp.</p> <p>This proposed change removes ATCP 78.20 (1) (c).</p>
ATCP 78.20 (1) (f) 1.	For the bathrooms, we do not necessarily recommend a certain type of barrier, just that an appropriate barrier is there and there is a barrier that allows for the individual responsible for bathroom supervision to be able to see how many feet are in the shower/bathroom stall. (4)	<p>This section of the proposed rule requires a functional privacy lock for each toilet stall. This is an important camper privacy and personal safety requirement.</p> <p>The department recommends no change.</p>
ATCP 78.21 (1) (a)	In support of the new requirements for sleeping quarter layout as opposed to previous cubic square feet. (3)	The department acknowledges the support for the proposed rule.
ATCP 78.21 (1) (c) 6.	Bunk Beds. Consider removing the reference to the CFR for bunk beds and just having DATCP requirements. (15) (9)	The department agrees with the comment and proposes to remove ATCP 78.21(1) (c) 6.
ATCP 78.21 (1) (d)	Add language to allow for individual camper mosquito netting in place of screened windows. (5) (48)	<p>The department agrees and proposes the following additions.</p> <p>ATCP 78.21 (1) (d) Screening. A camp shall use one of the following screening methods:</p> <p>1. 16 mesh wire or other effective screening kept in good repair shall be provided on all openings in sleeping quarters to prevent the entry of pests.^{Pf}</p> <p>2. Individual camper mosquito-type netting shall be provided.^{Pf}</p>
ATCP 78.22 (3) (b)	Provide clarity, our camp specifically uses compost, not clear in section that there is a distinction between garbage and compost to manage waste, and also as an	<p>The department proposes the follow language to provide additional clarity.</p> <p>ATCP 78.22 (3) (b) Wisconsin department of natural resources compliance. Solid waste</p>

	educational component or programming of camp. (36)	disposal, including composting, on the premises shall comply with chs. NR 500 to 538, as enforced by the Wisconsin department of natural resources.
ATCP 78.23	Clarification on the use of a colander for food preparation activities as an acceptable air gap method. (27)	This comment is outside the scope of ATCP 78 revision. Questions regarding food service activities can be found in ATCP 75 Retail Food Establishments. The departments recommends no change.
ATCP 78.24(8) (f) (4.)	Remove line pertaining to fire extinguisher and pull station locations on building evacuation diagram to create consistency between ATCP 72 and ATCP 78. NFPA Chapter 28 New Hotels and Dormitories and Chapter 29 Existing Hotels and Dormitories do not require that fire extinguishers and pull stations be identified. (9)	The department agrees and proposes to remove ATCP 78.24 (8) (f) (4.).
ATCP 78.25	Clarification as to what staff are not included in determining staff to camper ratios. Exempted staff include more than just maintenance and kitchen staff, clarify language around when staff are included and when they are not included in staffing ratios. (11)	The department agrees and provides the following clarification to the proposed rule. ATCP 78.25 Adult camp staffing. During camp operation the adult camp staff to camper ratio shall be as required pursuant to s. ATCP Table 78.25. ^P For the purposes of determining staff to camper ratio, personnel that do not have responsibility for providing training or direct supervision to campers including: kitchen staff, maintenance staff, housekeeping, or administrative office staff are not included.
ATCP 78.26 (1)	While the code formerly addressed hiring and training of recreational and educational camp staff, it did not include a requirement to do a criminal background check. This change is an industry best practice and an important code change that ACA supports. (54)	The department acknowledges the support for the proposed rule.
ATCP 78.26 (1) (a)	We have staff families that live on camp but not all the adults in the family work for camp and some	The department partially agrees with the comment. Based on the department's legal interpretation in ch. 938, Stats., the

	have children too young to be campers. I think it would make sense to add the word “adult” to “and any additional adult individuals residing on the camp’s premises with access to campers. (51)	department proposes the following language. ATCP 78.26 (1) (a) Camper supervision and safety (1) CAMP STAFF SCREENING. (a) General requirements. Camps shall take into account criminal background check information during the hiring of camp staff and any additional individuals 14 years or older residing on the camp’s premises with access to campers.
ATCP 78.26 (1) (c) 2.	What is the necessity for the HR or lawyer sign off on the background check threshold policy, if the requirements are already codified. (1)	The department is in agreement and proposes the following change. ATCP 78.26 (1) (c) 2. This policy shall be reviewed, signed and dated within the last three years. ^{Pf}
ATCP 78.26 (2) (a) 1.	Clarification on the requirement for the two year age difference for non-specialized activities supervision. (1)	The current rule requires supervision by an adult, the proposed rule allows for non-adults to provide supervision for non-specialized activities provided that the staff member is at least two years older than the campers in that activity. This allows camps greater flexibility in staffing. The department recommends no change.
ATCP 78.26 (3)	ACA supports new camper safety requirements in ch. ATCP 78, which includes the cost of staff time and training for supervising specialized program activities such as archery, horseback riding, firearms, and challenge course elements. (54)	The department acknowledges the support for the proposed rule.
ATCP 78.26 (3) (b)	Appreciate the attention to adventure and low rope courses. (7)	The department acknowledges the support for the proposed rule.
ATCP 78.26 (3) (b)	The addition of challenge course safety language in ch. ATCP 78 and a requirement to have high- and low-element courses inspected biennially is an important safety step for State of Wisconsin camps. This challenge course safety	The department acknowledges the support for the proposed rule.

	language applies to ropes courses, climbing walls, zip lines, and aerial parks. (54)	
ATCP 78.26 (3) (b) 3.	Provide additional language that would allow a contracted organization to hold the certification versus camp staff, due to extensive nature and cost prohibitive to camp operations. In much of ACA standards, there's usually a requisite experience option versus an outside organization certification. Suggests code would mimic that industry standard within ACA. (11) (26)	Challenge course activities are the only area in the proposed rule that requires certification or a training requirement. The department modified the proposed rule language to provide clarity. ATCP 78.26 (3) (b) 3. A camp's challenge course shall operate under the supervision of an individual certified or an individual that has documentation they have received training according to applicable ANSI/ACCT 03-2019 or ANSI/PRCA 1.0-.3-2014 challenge course industry standards for the specific challenge course activities. ^P
ATCP 78.26 (3) (b) 3.	Camp currently has a challenge course manager with ACCT certification. Camp currently provides Level 1 Certification and trains staff to level of 1. Staff don't actually receive certification, the organization would have to do a test day. The challenge course manager provides same level of training. Would it be adequate to use this without incurring extra cost of organization coming in to provide certification? (35) (26)	The department agrees and that is what is proposed under ATCP 78.26 (3) (b) 3.
ATCP 78.26 (3) (b) 1. a.	Why is inspection necessary for low ropes challenge courses. (1)	The department received input during the rule revision process that inspection on challenge courses to include high and low elements. This requirement is based on current industry best practices and received widespread industry support. The department recommends no change.
ATCP 78.26 (3) (c) 2. b. and 78.26 (3) (c) 9. b.	Clarification regarding the areas of swimming based on the participants evaluated ability. Can this be based on the size of the group or the depth of water, does this always have to	The department agrees and that this can be accomplished through the camp's written lifeguard and attendant staffing plan and proposes the following language for clarification.

	include the 4-sections as indicated in rule. (1)	ATCP 78.26 (3) (c) 2. b. Designated areas for each aquatic program activity including, swimming, boating, diving areas. ^{Pf} and 78.26 (3) (c) 9. b. Access to each aquatic program activity area shall be controlled and the area used for swimming shall be clearly marked and separated into sections based on the camps written lifeguard and attendant staffing plan including, non-swimmers, beginners, intermediates, and proficient swimmers. ^{Pf}
ATCP 78.26 (3) (c) 2. h. ATCP Table 78.26	Asked for review of the requirement of the lifeguard look-out ratio and the rationale on the number for the ratio. Review whether ratios are necessary to maintain safety. (26)	The department agrees and reviewed the requirement for an attendant for every 10 swimmers. Due to the environment and limited water clarity the department proposes the following change to the ATCP Table 78.26, for the ratio of attendants to participants. ATCP Table 78.26 Attendants (per activity) 1 for every 50 participants or fraction thereof.
ATCP 78.26 (3) (c) 6. a.	Clarification if lifeguard clothing is need to marked "lifeguard" if the rescue tube already says guard. (10), (26), (27), (51)	The department agrees and proposes the following clarification. ATCP 78.26 (3) (c) 6. a. At all times when on duty, wear clothing or rescue equipment that is conspicuously marked "Lifeguard" or "Guard".
ATCP 78.26 (3) (c) 9. c.	Campers often get permission to go above their evaluated area provided they are wearing approved PFD or lifejackets. It allows them to be included with other campers their age. Consider readdress of that section and other exemptions where campers can swim in deeper waters. (36), (27), (25)	The department agrees and proposes the following clarification. ATCP 78.26 (3) (c) 9. c. No person may go into a section marked for a swimming beyond their evaluated ability except when being tested under supervision for the next higher level or when wearing a properly fitted PFD. ^{Pf}
ATCP 78.26 (5) (a) 1.	What is the purpose for check-in of vendors or contracted services? Can clarification be made if these	The camp should have a written plan for how they address vendors or contractors that visit their camp, this does not

	individuals have no contact with campers, example a sanitation service driver that never leaves the vehicle? (1)	necessarily mean a check in and check out procedure. The department proposes the following language for clarification. ATCP 78.26 (5) (a) 1. PLANS FOR CAMPER SECURITY AND DEALING WITH EMERGENCIES. (a) <i>General camp security.</i> Camps shall have a written security plan for addressing all of the following: 1. Visitors, vendors, or contracted services that enter the camps premises. ^{Pf}
ATCP 78.26 (5) (c)	ACA expresses support for the new camper safety requirement to train staff in camper abuse prevention. These safety requirements will benefit campers and families and will provide staff with the skills and confidence to keep campers safe. (54)	The department acknowledges the support for the proposed rule.
ATCP 78.26 (5) (c)	Appropriate language in rule regarding enforcement actions against license for reported camper abuse. (49)	The department has the ability under ATCP 78.10, to suspend or revoke a license if the department finds violations that constitute a serious danger to public health. The department recommends no change.
ATCP 78.26 (5) (d)	Language that deals with reporting of camper abuse. (49)	The department agrees and proposes the following new section to clarify camp responsibility for allegations of camper abuse. ATCP 78.26 (5) (d) Response to allegations of camper abuse. 1. Camp shall immediately report an allegation of known or suspected camper abuse, neglect or sexual misconduct to the proper authorities. ^P 2. The camp shall separate the alleged perpetrator from campers until the incident is resolved, until the threat is removed, or as long as necessary to protect the safety and welfare of the campers. ^P
ATCP 78.27 (1) (a)	This has been a problem lately. Doctor's' have been reluctant to sign off on standing orders because	ATCP 78.27 (1) (a) The department in the proposed rule expanded the previous language to now include the consulting physician's practice to better reflect and include health care system models.

	of liability reasons. What options are available to camps? (27)	The department proposes no change.
ATCP 78.27 (1) (e)	What is the purpose for a staff health history form? Creates more paperwork for the camp. (1)	The department proposed this requirement as an additional measure to support camper safety. The camp shall have documentation for each staff member about medications they take or accommodations they need to perform the essential functions of their position. Disclosure of this information to the camp health supervisor increases awareness of camp staff medical needs. The department proposes no change.
ATCP 78.27 (1) (f)	Concerned with the requirements for separate handwashing and toilet facilities for suspected communicable disease or foodborne illness. The additional cost or staffing required to maintain this requirement. (1)	The department agrees and has removed this requirement in the proposed rule. The proposed section now reads as follows. ATCP 78.27 (1) (f) Health center. A camp shall have written procedures and space for the temporary isolation of sick or injured campers and staff members. ^P
ATCP 78.27 (2) (a)	Provide language that the health services supervisor inform the waterfront supervisor of campers that have a health history of seizures. (15)	The department agrees and proposes the following language. ATCP 78.27 (2) (a) Camp health services supervisor. 1. Except as provided pursuant to sub. (3), a camp shall have an adult camp health supervisor who shall be responsible for routine and urgent health care supervision at the camp and meet the requirements pursuant to par. (b) 1.to 5. ^P 2. The camp health supervisor shall inform appropriate camp staff of any specific needs, as identified in the camper health history, of a camper whom they are responsible. ^{Pf}
ATCP 78.27 (2) (b) 1.	Commenter is in support of the addition of the Wilderness First Aid Course as an option for health services staff. (3)	The department acknowledges the support for the proposed rule.

ATCP 78.27 (2) (b) 2.	Health Coverage and Training Requirements in relation to how long it takes for EMS to get on-site. This change is huge for the camp from 15 min to 30 min because these camps are at 16 min mark. In support of this change in the rule. (36)	The department acknowledges the support for the proposed rule.
ATCP 78.27 (2) (b) 4.	ACA supports the new camper safety requirement to train staff in medication administration. These safety requirements will benefit campers and families and will provide staff with the skills and confidence to keep campers safe. (54)	The department acknowledges the support for the proposed rule.
ATCP 78.27 (2) (b) (5), ATCP 78.27 Table A and ATCP 78.27 (4) (d) 2.	Expand language to include all recognizable safe ways to administer epinephrine. (15)	<p>The department agrees and proposes the following language change.</p> <p>ATCP 78.27 (2) (b) 5. Epinephrine. If a camp is prescribed an epinephrine auto-injector or pre-filled syringe as an authorized entity that is not patient specific or the camp plans to have health services staff help administer epinephrine to a camper, health services staff shall complete an anaphylaxis training program required pursuant to s. 255.07(5), Stats., and meet all of the following:</p> <p>ATCP 78.27 Table A Health services staff - Minimum training requirements (throughout table) ...administering medication or epinephrine they shall also meet subd. (2) (b) 4. and 5.</p> <p>ATCP 78.27 (4) (d) 2. Administered by health services staff qualified pursuant to par. (2) (b), except that epinephrine auto-injector, pre-filled syringe, inhaler, and insulin or other medication or device used in the event of life-threatening situations may be carried by a camper or staff member. Each</p>

		camper or staff member 18 years of age or older may take responsibility for the security of their personal medication. ^P
ATCP 78.27 (4) (f)	In support of the ability for an adult scout master to administer medication to campers. (3)	The department acknowledges the support for the proposed rule.
ATCP 78.27 (5) (b)	Comment regarding bound book requirement that is going away for medication and treatment logs. Standard is being modernized but has questions on whether the bound book will still be ok to use? Camp is a decentralized site, so electronic media will not be available at program sites. (25)	The department has not proposed to remove the bound book as an option for recording of medication administration. The bound book is one of many options for camps. The department recommends no change.
ATCP 78.29	Clarifying when a report to the department or agent needs to be made when EMS is called. (27)	The department has proposed this language to incorporate requirements for reporting of Emergency medical service responses in order to understand, quantify, and better address existing and emerging risks at camps. This is in alignment with ATCP 76 Swimming Pools. The department recommends no change.
ATCP 78.32 (2) (b)	Propose adding language for clarification regarding medication given on primitive camping trips. (38)	The department agrees with the comment and also provided the proposed alternative language for documentation of medication and treatment to campers on primitive camping trips. ATCP 78.32 (2) (b) Medication and treatment record. Any one of the following methods shall be used for the documentation of medical treatment and medication administration provided to campers while off premises of the licensed camp. ^{Pf} 1. Documentation pursuant to s. ATCP 78.27 (b) and (c). ^{Pf} 2. Alternative documentation method: a. Required information pursuant to s. ATCP 78.27 (c). ^{Pf}

		<p>b. Maintain a documentation of medical treatment including medications administered to campers while away from camp and submitted to the camp health services supervisor by the trip leader upon return to camp. ^{Pf}</p> <p>c. Documentation from this record shall be transferred to the camps medication and treatment log and be made available for review by the department or its agent upon request. ^{Pf}</p> <p>d. The original primitive camping medication and treatment documentation shall be kept by the camp health services supervisor and be made available for review by the department or its agent upon request. ^{Pf}</p>
<p>ATCP 78.32 (4) (b) 1.</p>	<p>Review and expand the acceptable alternative water treatment methods for primitive camping trips. (7) (51), (53)</p>	<p>The department agrees and updated the proposed language to reflect the most recent changes to the United States centers for disease control and prevention guidance for water treatment while hiking, camping, and traveling.</p> <p>ATCP 78.32 (4) (b) 1. Water shall be treated using one or more of the following methods: a. Brought to a rolling boil for a minimum of one minute. ^P</p> <p>b. Treated water with a purifier meeting NSF standard P231 or P248. The filter pore size shall be 0.02 microns or less. ^P</p> <p>c. Filtered using a filter with an absolute pore size not greater than 0.3 micron pursuant to NSF Standard 53 or 58 and disinfected with a chemical product labeled for the treatment of drinking water. ^P</p> <p>d. Treated with a water treatment method not covered under this section for which a request for a variance has been granted by the department. ^P</p>

Response to Legislative Council Staff Recommendations

The department incorporated all technical corrections suggested by the Legislative Council Rules Clearinghouse, except for the following areas:

Clearinghouse Comment	Department Response
<p>In s. ATCP 78.24 (1), does the agency intend to create an exception to requirements imposed by the department of safety and professional services (DSPS), or does the provision only impose more stringent requirements than those imposed by DSPS? If the provision allows for requirements less restrictive in nature, the agency should revise its explanation of statutory authority to more clearly describe its authority to do so.</p>	<p>Correct, for health and safety reasons to protect campers, ATCP 78 is more stringent than Wisconsin department of safety and professional services building code regarding guards, handrails and stairs.</p>
<p>The proposed rule should be reviewed in its entirety and revised to avoid use of subjective terms such as “usually”, “easily”, “readily”, “normal”, “typically”, “adequate”, “good repair”, “reasonable”, “immediate vicinity”, and “appropriate”. These terms are vague and reduce the clarity of the proposed rule</p>	<p>The terms “easily cleanable” and “good repair” are important to use because the department would be unable to describe the wide array of situations that these terms encompass with respect to equipment, structures and physical facilities. There needs to be an element of judgement applied in these cases.</p> <p>All other terms identified were corrected throughout the rule.</p>
<p>The proposed rule should be reviewed in its entirety and revised to avoid use of duplicate terms. For example, s. ATCP 78.03 (7) states that an “attendant” may also be referred to as a “lookout” and s. ATCP 78.03 (10) defines “boat” and “vessel” to have the same meaning. Rather than using both terms, the agency should choose one term and use it consistently throughout the proposed rule. Similarly, once a term is defined in s. ATCP 78.03, use only the defined term in the rule text, rather than elements of that term’s definition, and once a term is assigned an acronym, that acronym should be used consistently throughout the proposed rule.</p>	<p>The terms “backcountry” and “primitive camping” and the terms “attendant” and “lookout” are duplicative terms commonly used interchangeably in industry. For consistency between other rules, the terms “primitive camping” and “attendant” are already defined, but the terms “backcountry” and “lookout” are common industry terms. To promote understanding of the rule for industry, these terms are used in conjunction with the defined terms.</p> <p>All other duplicative terms were changed throughout the rule.</p>
<p>Section ATCP 78.17 (6) (a) 2. Should define a standard for “effective measures to minimize the presence of pests”.</p>	<p>The department is unable to define a standard that would encompass all the alternative pest control measures that could incorporate the term “effective measures”. There needs to be an element of judgement applied in these cases, where many variables may exist.</p>

Report from the SBRRB and Final Regulatory Flexibility Analysis

This rule does not have an impact on small businesses. The Final Regulatory Flexibility Analysis is attached. CR 21-109 was presented to the Small Business Regulatory Review Board on Wednesday, March 30, 2022 using Microsoft Teams. Clarification was provided for camps that offer challenge courses inspection costs.