



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: April 30, 2025

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary
Adam Brock, Administrator, Division of Food and Recreational Safety

SUBJECT: **ATCP 72, Hotels, Motels, and Tourist Rooming Houses**

TO BE PRESENTED BY: Kobby Antwi / James Kaplanek

REQUESTED ACTION:

At the May 8, 2024 DATCP Board meeting, the Department will ask the Board to approve a final hearing draft relating to Hotels, Motels, and Tourist Rooming Houses under ch. ATCP 72.

SUMMARY:

The Department is proposing to modernize the antiquated Wis. Admin. Code ch. ATCP 72 with a repeal and recreate that will significantly overhaul the definitions section, modernize smoke alarm, and carbon monoxide alarm placement, address slip, trip, and fall hazards, update the licensing and fee structure, and enhance existing provisions to ensure a safe lodging experience and environment. Modernization also reflects gender inclusion considerations with the proposed revised language using the term “per person” in place of “male” or “female.”

The proposed updates to Wis. Admin. Code ch. ATCP 72 contain an overhaul of definitions that includes amendments, modernization and expansion of terms used in the rule for clarification. Expansion of the definitions section includes over 80 newly defined terms. This expansion is beneficial because it creates clarity, efficiency, and an opportunity for both small business and authorized representatives conducting inspections to speak the same language used within the rule.

The proposed fees and licensing structure for lodging establishments will address several critical issues. As the lodging industry evolves with new business models and technologies, the existing framework has become increasingly misaligned with current practices and economic realities. The current fees do not accurately reflect the costs of regulatory oversight needed to inspect the growing industry which can create inefficiencies and delays, impacting both regulators and businesses. The licensing structure will include three license types: tourist rooming house, hotel or motel, and specialty lodging. Each lodging type will then have multiple fee options based on the number of individually keyed units being offered for overnight sleeping accommodations. A single tourist rooming house, or vacation rental, will take more time to inspect than a single hotel room which is reflected in the associated fee. In addition, the draft rule addresses facilities that expand after receiving their initial lodging license. The rule will allow for these expanded areas to be inspected for compliance and allow

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for the costs to complete the work to be recouped. Lastly, the rule has introduced the specialty lodging option to adapt to more primitive lodging experiences offered in other parts of the country. Updating these elements is essential to ensure a fair and effective regulatory environment, promote industry growth, and improve the overall quality of lodging services.

The proposed rule will add an annual sampling frequency for bacteriological testing of private wells which is consistent with public water systems found at other lodging facilities. The annual testing of private wells for bacteria, such as total coliform and *Escherichia coli*, is also consistent with other recreational programs regulated by the Department. In addition to bacteria, the proposed rule is also intending to include an annual sampling frequency for nitrate testing of private wells which is also consistent with public water systems at other lodging facilities. According to the Wisconsin department of health services, nitrate is one of the most common groundwater contaminants in Wisconsin and studies estimate that at least 10% of private wells in Wisconsin have high levels of nitrate. The Wisconsin department of health services also indicates high nitrates in drinking water can affect infants, pregnant individuals, may increase the risk of thyroid disease and, may increase the risk of colon cancer in all individuals.

The proposed regulation includes the current installation and maintenance requirements for carbon monoxide alarms as reflected in s. 101.149, Stats., and most recently updated in 2017 Wisconsin Act 330. The updated statutory language replaced the prior requirements for carbon monoxide alarms in residential buildings with standards which are similar to those in International Building Codes. The installation focus changed to put an emphasis on sleeping areas.

The proposed rule includes installation and maintenance requirements for smoke alarms consistent with s. 101.145, Stats. The areas of installation will include every floor, at the top of any stairway, outside of each sleeping area and within each sleeping room.

The Department and its agent health departments have routinely observed potential slip, trip, and fall hazards at lodging facilities during pre-licensing inspections. Most often these hazards are observed at tourist rooming houses and the structures oftentimes predate any building code requirements. The proposed language will address very basic, but essential, safeguards to address the commonly observed slip, trip, and fall hazards. Items such as handrails for staircases, guards on elevated decks, balconies, lofts or other elevated surfaces, and the addition of slip-resistant materials or bathmats in bathtubs or showers that have smooth basins would be addressed in the proposed language.

The rule has proposed language to address waterborne disease outbreaks and additional requirements for those outbreaks involving the bacteria *Legionella* spp. The Department has been involved in 14 suspected outbreaks over the course of eight years at lodging facilities involving *Legionella* bacteria which has resulted in 33 illnesses and one death. According to the United States centers for disease control and prevention, *Legionella* bacteria cause Legionnaires' disease and Pontiac fever which are spread to people through building water systems. Legionnaires' disease is a severe type of pneumonia that can lead to lung failure and even death. If a lodging facility has a confirmed *Legionella* outbreak, then the operator will be required to develop a *Legionella*

water management program to control and prevent future outbreaks. The United States centers for disease control and prevention has free online resources and a toolkit to assist operators in the development of a *Legionella* water management program.

The proposed language includes a new requirement for reporting death, injury, or food, waterborne or other communicable illnesses that requires an emergency medical service (EMS) response relating to the operation or maintenance of the lodging facility. The Department will consult with the lodging industry on the development of criteria for lodging specific death, injury, and illness information to be collected on the form. This data will assist in designing effective outreach and meaningful interventions and the data collected may help support future rule development. This data will be mutually beneficial to both small business and the Department as they make continuous improvements in keeping guests safe and healthy.

The proposed language incorporates criticality methodology initially developed by the United States food and drug administration for their model food code to create a risk-based inspection system. This risk-based methodology seeks to identify those provisions that are more critical for protecting public health and to designate a risk level of hazards. Each code provision will be assigned as a core item, priority foundation item or priority item. Core items are typically designated for cleanliness or maintenance procedures. Priority foundation items, if left uncorrected over time, or in conjunction with other priority foundation items, may lead to illness or injury. Lastly, priority items, if uncorrected or are missing at the time of inspection, could significantly contribute to an increased risk for injury or illness; a nonfunctional or absent smoke alarm as an example. The criticality method provides clarity to industry by identifying those provisions which are more likely to cause illness or injury and supports a risk-based inspection approach. The criticality method has been adopted and is used in Wis. Admin. Code ch. ATP 75, Wisconsin food code, Wis. Admin. Code ch. ATP 76, Wisconsin pool code, and Wis. Admin. Code ch. ATP 78 Wisconsin recreational education camp code.

The above-mentioned rule adjustments are needed to address outdated regulatory practices, adapt to evolving industry standards, overall growth, and to ensure a continued fair and efficient oversight of the lodging industry. Current regulations do not fully reflect modern business models or accurately cover the costs for enforcement of the rule. The updated proposed rule will streamline processes, enhance compliance, and support industry growth by aligning regulations with current needs and practices.

Public Hearing

The Department held four public hearings around the State. Following the public hearings, the hearing record remained open until February 21, 2025.

Date and Time	Location
Tuesday, February 4, 2025 10:00 a.m. to 2:00 p.m.	Wisconsin State Office Building, Room 129 718 W. Clairemont Ave., Eau Claire, WI

Wednesday, February 5, 2025 10:00 a.m. to 2:00 p.m.	Portage County Public Library, 1001 Main Street, Stevens Point, WI 54481. Prairie Meeting Room
Thursday, February 6, 2025 10:00 a.m. to 2:00 p.m.	DNR Service Center, 2984 Shawano Avenue, Green Bay, WI 54313. Lake Michigan Room
Wednesday, March 2, 2022 10:00 a.m. to 2:00 p.m.	Prairie Oak State Office Building, Room 106 2811 Agriculture Drive, Madison, WI. Attendees could also join virtually at this location.

Public hearing notices were posted at the State Legislature’s Active Rules Clearinghouse website and in the Administrative Register. A total of 26 persons/organizations attended the hearings and/or submitted comments.

Feedback received from industry groups and organization representatives was generally in support of the proposed rule change. The Department received comments asking for clarification or modifications to the proposed rule. Seventy-nine comments were received and many of the suggestions were incorporated into the proposed rule. A full list of the comments, responses, changes made to the proposed rule can be found in the report to the legislature. The Department also heeded suggested editorial changes to improve sentence structure and increase readability within the proposed rule.

Changes from the Hearing Draft

The Department incorporated all technical corrections suggested by the Legislative Council Rules Clearinghouse. Changes based on the public hearings and comments sent to the Department are discussed in the report to the legislature.

Comparison with Rules in Adjacent States

Illinois

The State of Illinois does not have a standardized state sanitation code for regulating lodging facilities.

Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

Indiana

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The State of Iowa standardized state sanitation code for regulating lodging facilities is Iowa Code Title IV, Public Health, Chapter 137C - Hotel Sanitation Code.

The Iowa Hotel Sanitation Code Subchapter III Health and Safety requirements only address four sections: plumbing, toilet and lavatory facilities, fire safety, and the prohibition of employment of persons with communicable diseases.

Michigan

The State of Michigan does not have a standardized state sanitation code for regulating lodging facilities.

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Minnesota

The State of Minnesota standardized state sanitation code for regulating lodging facilities is Minnesota Rules ch. 4625, Lodging Establishments, promulgated pursuant to Minnesota Statutes, ch. 157.

Of the five neighboring states, the Minnesota lodging sanitation rule most closely resembles the Wis. Admin. Code ch. ATCP 72. The Minnesota Department of Health has recently begun the process to revise the Minnesota Lodging Code.

Chapter 4625 applies to all establishments that provide overnight sleeping accommodations, such as hotels, motels, lodging establishments and resorts as defined in Minnesota Statutes.

The proposed Minnesota Lodging Code similarly addresses maintenance and cleanliness of equipment, furnishings, buildings and premises, fall hazard prevention with handrails and guardrails, safe water supplies, sanitization of reusable dishware and utensils, waste disposal, pest control, and fire protection and safety.

Summary of Factual Data and Analytical Methodologies

The ATCP 72 Rule Revision Advisory Committee was created to assist the Department in the repeal and recreation process of Wis. Admin. Code. ch. ATCP 72. The committee was tasked with vetting the objectives outlined in the SS 010-23 Scope Statement and for developing a revised rule from those discussions. The committee was comprised of a diverse group of individuals that represented various facets of the lodging industry. Membership included individuals from the Wisconsin Hotel and Lodging Association, Wisconsin Association of Campground Owners, Wisconsin Realtors Association, Wisconsin County Code Administrators, Wisconsin Association of Local Health Departments and Boards – Environmental Health, tourist rooming house owners and Department staff.

Effect on Small Business

The department believes that the provisions in this proposed rule will benefit Wisconsin's lodging industry and is expected to impose a minimal impact on additional costs. The department expects stakeholders may favorably view consideration of rule provisions that allow industry more flexibility in meeting standards and more fairly allocate regulatory requirements.

This rule will not have a significant adverse effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22 (2) (e), Stats.

Next Steps

If the Board approves this final draft rule, the Department will submit the final draft rule to the Governor for written approval. If the Governor approves the final rule, the Department will then submit the rule to the Legislature for legislative committee review. If the Legislature has no objection to the rule, the Department Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect 90 days after the first day of the month following publication.

**THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER
PROTECTION'S PROPOSED ORDER TO ADOPT PERMANENT RULES**

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to repeal* and *recreate* Wisconsin Administrative Code chapter ATPC 72, *relating to* the regulation of hotels, motels, and tourist rooming houses.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

The Wisconsin Department of Agriculture, Trade and Consumer Protection (Department) proposes an order to repeal and recreate Wis. Admin. Code ch. ATPC 72 Hotels, Motels, and Tourist Rooming Houses, formerly Wis. Admin. Code ch. DHS 195. Wis. Admin. Code ch. DHS 195 had not been significantly modified by the Wisconsin Department of Health Services since 1985. Chapter ATPC 72 has also not been significantly modified since the program was brought to the Department on July 1, 2016. This new rule, if adopted, will bring Wisconsin into substantial accord with the current industry technology, innovations, and tourism experiences.

Statutes Interpreted

Statutes Interpreted: Sections 93.07(1) "Department of agriculture, trade and consumer protection;" 97.605 "Lodging and vending licenses;" 97.607 "Pre-licensing inspection;" 97.613 "Fees;" 97.615 "Agent status for local health departments;" 97.62 "Health and safety; standard;" 97.623 "Hotel safety;" 97.625 "Powers of the department and local health departments;" 97.65 "Enforcement;" and 227.11 (2) (a) "Agency rule-making authority," Stats.

Statutory Authority

Statutory Authority: Sections 93.07 (1), 97.605, 97.607, 97.613, 97.615, 97.62, 97.623, 97.625, 97.65, and 227.11 (2) (a), Stats.

Explanation of Statutory Authority

The Department has broad general authority, pursuant to s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The Department has specific authority for the requirements to issue lodging and vending licenses, pursuant to s. 97.605, Stats. The Department and agent health department have specific authority to conduct pre-licensing inspections at lodging facilities, pursuant to s. 97.607, Stats. The Department has specific authority to promulgate rules that establish fees, pursuant to s. 97.613, Stats. The Department and agent health departments have specific authority to enter into a written agreement to inspect hotels, motels, and tourist rooming houses, pursuant to s. 97.615, Stats. The Department has the authority to ensure that lodging facilities are operated and maintained with a strict regard to public health and safety, pursuant to s. 97.62, Stats. The Department and agent health departments have the power to administer and enforce rules, pursuant to s. 97.625, Stats. The Department has specific enforcement authority, pursuant to s. 97.65, Stats. The Department has specific authority for rule making, pursuant to s. 227.11 (2) (a), Stats.

Related Statutes and Rules

The Department has regulated hotels, motels, and tourist rooming houses since the transfer of several programs from the Wisconsin department of health services to the Department on July 1, 2016. Lodging facilities are regulated, pursuant to ch. 97, Stats., as well as, interwoven with other Wisconsin department administrative rules.

Wisconsin Admin. Code chs. NR 140, 149, 809, 812 rules relating to water supply and drinking water standards as enforced by the Wisconsin department of natural resources are referenced in Wis. Admin. Code ch. ATP 72.

Wisconsin Admin. Code chs. NR 660 to 670 rules relating to handling hazardous substances as enforced by the Wisconsin department of natural resources are referenced in Wis. Admin. Code ch. ATP 72.

References to the Wisconsin department of safety and professional services rules are present in Wis. Admin. Code ch. ATP 72 for construction standards of buildings, plumbing, and private onsite wastewater treatment systems per ss. 101 and 145, Stats., and Wis. Admin. Code chs. SPS 300-399 as enforced by the Wisconsin department of safety and professional services.

Provisions for the installation and maintenance of carbon monoxide and smoke alarms are closely modeled after ss. 101.145 and 101.149, Stats., to ensure basic life safety protection in public buildings and structures with fuel-burning appliances.

Plain Language Analysis

The Department and its agent health departments license approximately 12,500 hotels, motels, and tourist rooming houses throughout the state. According to the 2023 Wisconsin Department of Tourism Economics Report, the lodging industry generated an estimated \$3.4 billion in direct business sales and \$1.2 billion in labor income. The lodging options available to tourists has drastically expanded beyond the typical hotel or motel room and occasional lakeside cabin that was available 40 years ago. The advent of online home rental services has added to the lodging market with new and unique overnight accommodations options for visitors inspired to experience Wisconsin.

The Department is proposing to modernize the antiquated Wis. Admin. Code ch. ATP 72 with a repeal and recreate that will significantly overhaul the definitions section, modernize smoke alarm, and carbon

monoxide alarm placement, address slip, trip, and fall hazards, update the licensing and fee structure, and enhance existing provisions to ensure a safe lodging experience and environment. Modernization also reflects gender inclusion considerations with the proposed revised language using the term “per person” in place of “male” or “female.”

The proposed updates to Wis. Admin. Code ch. ATP 72 contain an overhaul of definitions that includes amendments, modernization and expansion of terms used in the rule for clarification. Expansion of the definitions section includes over 80 newly defined terms. This expansion is beneficial because it creates clarity, efficiency, and an opportunity for both small business and authorized representatives conducting inspections to speak the same language used within the rule.

The proposed fees and licensing structure for lodging establishments will address several critical issues. As the lodging industry evolves with new business models and technologies, the existing framework has become increasingly misaligned with current practices and economic realities. The current fees do not accurately reflect the costs of regulatory oversight needed to inspect the growing industry which can create inefficiencies and delays, impacting both regulators and businesses. The licensing structure will include three license types: tourist rooming house, hotel or motel, and specialty lodging. Each lodging type will then have multiple fee options based on the number of individually keyed units being offered for overnight sleeping accommodations. A single tourist rooming house, or vacation rental, will take more time to inspect than a single hotel room which is reflected in the associated fee. In addition, the draft rule addresses facilities that expand after receiving their initial lodging license. The rule will allow for these expanded areas to be inspected for compliance and allow for the costs to complete the work to be recouped. Lastly, the rule has introduced the specialty lodging option to adapt to more primitive lodging experiences offered in other parts of the country. Updating these elements is essential to ensure a fair and effective regulatory environment, promote industry growth, and improve the overall quality of lodging services.

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fall hazards. Items such as handrails for staircases, guards on elevated decks, balconies, lofts or other elevated surfaces, and the addition of slip-resistant materials or bathmats in bathtubs or showers that have smooth basins would be addressed in the proposed language.

The rule has proposed language to address waterborne disease outbreaks and additional requirements for those outbreaks involving the bacteria *Legionella spp.* The Department has been involved in 14 suspected outbreaks over the course of eight years at lodging facilities involving *Legionella* bacteria which has resulted in 33 illnesses and one death. According to the United States centers for disease control and prevention, *Legionella* bacteria cause Legionnaires' disease and Pontiac fever which are spread to people through building water systems. Legionnaires' disease is a severe type of pneumonia that can lead to lung failure and even death. If a lodging facility has a confirmed *Legionella* outbreak, then the operator will be required to develop a *Legionella* water management program to control and prevent future outbreaks. The United States centers for disease control and prevention has free online resources and a toolkit to assist operators in the development of a *Legionella* water management program.

The proposed rule text has incorporated similar language that is currently used in the Minnesota Lodging Code which may require a lodging operator to hire or consult with a licensed pest control operator in cases of an extensive pest infestation. The proposed rule still preserves current methods of allowing an operator to self-treat using non-restricted use pesticides for more manageable infestations.

The proposed language includes a new requirement for reporting death, injury, or food, waterborne or other communicable illnesses that requires an emergency medical service (EMS) response relating to the operation or maintenance of the lodging facility. The Department will consult with the lodging industry on the development of criteria for lodging specific death, injury, and illness information to be collected on the form. This data will assist in designing effective outreach and meaningful interventions and the data collected may help support future rule development. This data will be mutually beneficial to both small business and the Department as they make continuous improvements in keeping guests safe and healthy.

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The above-mentioned rule adjustments are needed to address outdated regulatory practices, adapt to evolving industry standards, overall growth, and to ensure a continued fair and efficient oversight of the lodging industry. Current regulations do not fully reflect modern business models or accurately cover the costs for enforcement of the rule. The updated proposed rule will streamline processes, enhance compliance, and support industry growth by aligning regulations with current needs and practices.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

There are no existing or proposed federal regulations that address the sanitation and maintenance of operational activities at lodging facilities to be regulated by this proposed rule.

Summary of Comments Received during Preliminary Comment Period and at Public Hearing on Statement of Scope

The Department held a preliminary hearing on the statement of scope (SS 010-23) on March 29, 2023 in Eau Claire, March 30, 2023 in Stevens Point, and April 4, 2023 in Madison, with an online comment period open until April 18, 2023. The Department received two oral comments during the preliminary hearings and one written comment.

The oral comments requested the Department to address occupancy at tourist rooming houses.

The written comment identified areas of concern in regards to the following proposals: expanding the definitions of terms used in rule; an alternative inspection frequency for tourist rooming houses; department specific language for health and safety features related to slip, trip and fall hazards; addressing emerging communicable diseases; addressing pests of public health significance; and adding requirements of reporting illnesses, injuries, and accidents that require emergency medical service response.

Comparison with Rules in Adjacent States

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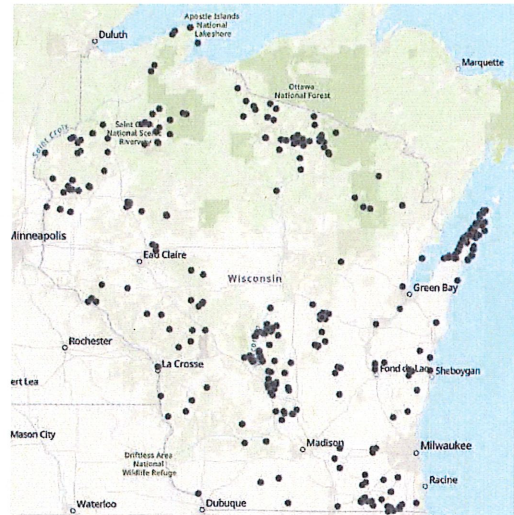
Summary of Factual Data and Analytical Methodologies

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Analysis and Supporting Documents used to Determine Effect on Small Business Or in Preparation of an Economic Impact Analysis.

Annual Private Well Water Testing

As of early 2024, data available to the department suggests approximately 388 private wells located at licensed lodging facilities in the state. The Wisconsin department of natural resources matched the physical addresses of licensed lodging establishments against the physical addresses of registered private wells. This is an underestimate of the total number of statewide private wells serving lodging facilities, as Dane, Milwaukee, and Taylor counties were not included. Nonetheless, the financial burden of annual water testing of private wells is a fractional impact on the industry. The Wisconsin department of natural resources lists 143 laboratories certified for coliform bacteria testing and 123 laboratories certified for nitrate testing. The current water testing prices for bacteria and nitrate water tests are \$35 each at the Wisconsin state laboratory of hygiene. This would result in an annual financial burden of \$70 for this small subset of licensed lodging facilities.



Private Wells at Licensed Lodging Facilities.

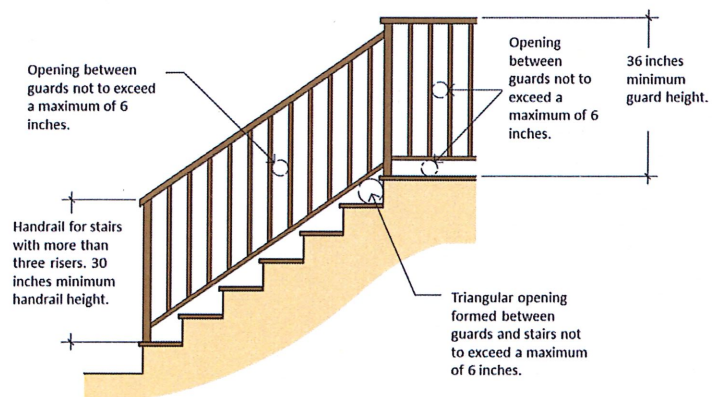
Legionella Outbreak Response and Remediation

The cost to remediate a lodging facility for a *Legionella* contamination can vary widely depending on several factors, including the size and location of the facility, the extent of the contamination, and the specific measures required for remediation. The costs can range from a few thousand dollars to tens of thousands of dollars or more and include an assessment, cleaning, disinfection, and any necessary modifications to the building or plumbing systems. The overall financial impact on the industry is minimal with less than two suspected outbreaks per year.

Slip, Trip, and Fall Hazards

The cost to modify a stair handrail, or to protect an elevated surface, will vary based on factors such as the type or materials used, the quantity of materials needed for modification, and the location of the repair. Estimates can range from a few hundred dollars to thousands of dollars or more depending on materials and complexity.

The methods chosen to address a slip hazard in a bathtub or shower will vary greatly in costs. A roll of slip resistant tape designed for indoor bathtub and shower use costs around \$12 for 15 feet compared to bathtub refinishing which has an estimated cost of around \$480.



Pictorial Summary of Proposed Requirements for Stairs and Elevated Surfaces

Smoke Alarm Installation

The cost of a 10-year “worry-free” smoke alarm is approximately \$20 per alarm and can be installed by the lodging operator without any special equipment. A 3-bedroom vacation home with 2 sleeping rooms on the first floor and 1 sleeping room in the basement may require 6 smoke alarms in the proposed language. The hypothetical vacation home would equate to \$120 to protect, or \$12 per year. Oftentimes, smoke alarms can be purchased in bundled quantities which will reduce the individual estimated cost per alarm.

Pest Control

The cost to rid a lodging facility of pests can vary widely depending on several factors, including the size and location of the facility, the extent of the infestation, and the specific treatment methods used. The costs can range from a few hundred dollars to thousands of dollars or more and include an assessment, treatment, and any necessary modifications to the building to prevent further infestations.

Fees

The Department presented three various fee models to the ATCP 72 Rule Revision Advisory Committee. All three models generated nearly the same targeted revenue. Model 1 had higher fees for preinspections compared to the other models. Model 2 had higher fees for annual licenses compared to the other models. Lastly, model 3 was a blend between the other models. The committee ultimately selected model 1 as the desired fee structure.

The proposed fee structure has been expanded to offer more license options which will assist in capturing the costs of the inspection services more accurately and will distribute fees more fairly. The licenses will increase from five license options to 22 license options across the tourist rooming house, hotel and motel, and specialty lodging licensing fee categories.

The Department believes the fee changes proposed will have minimal effect on small businesses. The current fees have not been modified in 14 years and the proposed fees are calculated to have a three percent increase per year for hotel and motel licenses and a six percent increase per year for tourist rooming house licenses during that timeframe. The higher fee increase for tourist rooming houses reflects the increased inspection complexity, and increased time demand for scheduling and traveling compared to a traditional hotel room.

The financial impact of the modernized license and fee model is low and maintains the current association between an increased fee based on the number of individually keyed units offered, through a tiered model. A lodging facility would be placed into one of three license types: tourist rooming house, hotel and motel, or specialty lodging unit. Within each license type is a range of individually keyed units with an associated fee that increases as the number of units increases. The ranges of individually keyed units have also been increased to an upper limit of 1,000 or more hotel rooms compared to the current maximum of 200 or more hotel rooms. In addition, first reinspection fees and second reinspection fees have been reduced to a flat rate fee for all 22 license options.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

See above for analysis and supporting documents used to determine effect on small business.

The Department's Regulatory Review Coordinator may be contacted by:

Bradford Steine, Program and Policy Analyst
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Department Contact Person

James Kaplanek, Section Manager for Retail Food and Recreational Programs
Department of Agriculture, Trade and Consumer Protection
Division of Food and Recreational Safety
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4735
Email: James.Kaplanek@wisconsin.gov

Where and When Comments May Be Submitted

Questions and comments related to this rule may be directed to:

James Kaplanek, Section Manager for Retail Food and Recreational Programs
Department of Agriculture, Trade and Consumer Protection
Division of Food and Recreational Safety
P.O. Box 8911
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RULE TEXT

SECTION 1. ATCP 72 is repealed and recreated to read:

Chapter ATCP 72

HOTELS, MOTELS, AND TOURIST ROOMING HOUSES

SUBCHAPTER I

DEFINITIONS, AUTHORITY AND PURPOSE

ATCP 72.01 Authority and purpose. This chapter is promulgated under the authority of ss. 97.605 (1) (c) and (d), 97.613, 97.615 (2) (b), 97.62, and 97.625 (1) (b), Stats., for the department and its agents to prescribe rules for a lodging facility and to enforce these rules to protect public health and safety.

ATCP 72.02 Scope. This chapter applies to the license holder of any lodging facility and to the department and its agents.

ATCP 72.025 Variances. When it appears to the department that strict adherence to a provision of this chapter is impractical for a particular lodging facility, the department may approve a variance from that provision requested by that operator if the operator provides the department with satisfactory proof that the approval of the variance will not jeopardize the public's health, safety, or welfare.

(1) PROCEDURE FOR A VARIANCE REQUEST. (a) *Application.* A request for modification or waiver of a requirement of this chapter shall be submitted in writing to the department or its agent having jurisdiction along with documentation specified in par. (e).

(b) *Local review.* A local inspector shall review the request and forward it to the department with recommendations for approval or disapproval.

(c) *Department action on a variance.* On receipt of a complete variance request as specified in this section, the department shall review the request and grant or deny the request in writing within 30 business

days. A variance approved by the department shall expire 5 years from the date of issuance or for an experimental or trial purpose, a period of time as determined by the department, not to exceed 5 years.

(d) *Records*. The department or its agent shall maintain a copy of the variance in the establishment's inspection history file.

(e) *Application contents*. Documentation requesting a proposed variance from the requirements of this chapter shall include the following:

1. A statement of the proposed variance from a requirement of this chapter, citing the relevant chapter section numbers.

2. The rationale for how the potential public health hazards and nuisances addressed by the relevant chapter section will be alternatively addressed by the proposed variance.

(2) CONFORMANCE WITH AN APPROVED VARIANCE. If the department grants a variance as specified in sub. (1), the license holder shall meet all of the following requirements:

(a) *Conditions*. Comply with the department's conditions for the variance approval.

(b) *Records*. Maintain a copy of the approved variance at the lodging facility.

(3) REISSUANCE. (a) *Request*. A license holder who wishes to continue a variance after its expiration shall file a written request with the department for reissuance of the variance at least 30 calendar days prior to its expiration, unless permission for a later expiration date has been granted by the department.

(b) *Status of existing variance*. When a license holder has made timely and sufficient application for the reissuance of a variance in reference to any activity of a continuing nature, the existing variance does not expire until the application has been finally acted upon by the department.

Note: To obtain a form for requesting a variance, e-mail datcpdfsrec@wisconsin.gov or contact the bureau of food and recreational businesses at (608) 224-4700 or PO Box 8911, Madison, Wisconsin 53708-8911.

ATCP 72.03 Definitions. In this chapter:

(1) "Active managerial control" means the purposeful incorporation of systems in a lodging facility that proactively reduce the risk of illness or a hazard through monitoring and verification.

(2) "Administrative follow-up" means a type of reinspection to validate a corrective action of a

violation through electronic or other effective means without the need for a physical visit.

(3) “Agent” means a local health department as defined in s. 250.01 (4), Stats., that has entered into a contract with the department and is authorized under the terms of that contract to administer a retail food establishment, lodging, and recreational safety regulatory program, pursuant to ss. 97.41 and 97.615 (2), Stats., in the health department’s area of jurisdiction.

(4) “Air gap” means all of the following:

(a) In a wastewater system, air gap has the meaning given in s. SPS 381.01 (6).

(b) In a water supply system, air gap has the meaning given in s. SPS 381.01 (7).

(5) “Alarm signal” means a fire alarm control unit condition indicating that there is an immediate threat to life, property, or mission.

Note: Alarm signals can result due to the presence of fire, chemicals, freezing temperatures or other circumstances.

(6) “Approved” means acceptable to the department or its agent, based on its determination of conformance with this chapter and good public health practices.

(7) “Basement” means the portion of the lodging facility below the first floor or ground floor with its entire floor below grade.

(8) “Bed” means a piece of furniture for sleep or rest including a framework with a mattress and coverings, cot, bunk bed, futon, sleeper sofa, sleeping pad, or air mattress placed on the floor.

(9) “Boarding house” means a rooming house as defined in sub. (80).

(10) “Bottled water” has the meaning given in s. ATCP 90.01 (2).

(11) “Bunk bed” means a piece of furniture consisting of a platform-like bed in which the underside of the top platform is elevated over 30-inches from the floor.

(12) “Business” means a person’s regular occupation, profession, or trade.

(13) “Camping cabin” has the meaning given in s. ATCP 79.03 (4).

(14) “Carbon monoxide alarm” means an electronic or battery-operated device or system that sounds an alarm when an unsafe level of carbon monoxide is in the air. Carbon monoxide alarms conform to

Underwriters Laboratories standard 2034, Standard for Single and Multiple Station Carbon Monoxide Alarms.

(15) “Carbon monoxide detector” means an electronic device or sensor that monitors for carbon monoxide and is connected to a whole building fire alarm and detection system. Carbon monoxide detectors conform to Underwriters Laboratories standard 2075, Gas and Vapor Detectors and Sensors.

(16) “Ceiling height” means the clear vertical distance from the finished floor to the finished ceiling.

(17) “Certified laboratory” means either of the following:

(a) For coliform and *Escherichia coli*, a laboratory certified under ch. ATP 77.

(b) For nitrates, a laboratory accredited under ch. NR 149.

(18) “Clean” means the absence of dirt, grease, rubbish, garbage, and other offensive, unsanitary, or extraneous matter.

(19) “Communicable disease” means an infectious disease that is transmissible by contact with infected individuals or their bodily discharges or fluids, by contact with contaminated surfaces or objects, by ingestion of contaminated food or water, or by direct or indirect contact with disease vectors.

(20) “Communicating opening” means a door, window, or any other opening, which allows air to be exchanged between a fuel-burning appliance or garage and an individually keyed unit.

(21) “Contiguous” means a property sharing a common border with another property, excluding private roadways.

(22) “Core item” means all of the following:

(a) A provision in this chapter that is not designated as a priority item or a priority foundation item.

(b) An item that relates to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, equipment design, or general maintenance.

(23) “Death, injury, or illness report” means the written record of all facts regarding an incident resulting in bodily harm that requires assistance from emergency medical personnel for a lodging facility or its associated buildings and structures.

(24) “Deck” means an unenclosed exterior structure, attached or adjacent to the exterior wall of a building, which has a floor, but no roof.

(25) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

(26) “Easily cleanable” means a material or finish of a surface that allows effective removal of soil by manual or mechanical cleaning methods.

(27) “Emergency medical service” means an emergency service that provides ambulance service response in a geographic area and is staffed by certified rescue professionals such as an emergency medical technician or emergency medical responder.

(28) “Employee” means any person working in a lodging facility.

(29) “Equipment” means an article used in a lodging facility, including furnishings, decorative materials, fireplaces, heating units, and appliances, but excluding land and building structures.

(30) “Exclude” means to prevent a person from working or entering a lodging facility as an employee.

(31) “Existing hotel, motel, or tourist rooming house,” means a lodging facility operating with a license first issued by the department or its agent before the effective date [LRB inserts date].

(32) “Exit” means a direct, continuous, unobstructed means of egress to the exterior of the building.

(33) “Failing private on-site wastewater treatment system” has the meaning given in s. 145.01 (4m), Stats.

(34) “Fire alarm control panel” means a unit that monitors all inputs and controls all outputs of the fire alarm system.

Note: The different types of conditions that can be seen at the fire alarm control panel are “alarm”, “supervisory,” and “trouble”.

(35) “First floor” means the floor level above any basement or ground floor or in the absence of a basement or ground floor means the lowest floor level in the lodging facility.

(36) “Food-contact surface” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(37) “Fuel-burning appliance” means a device that burns fossil fuel or carbon-based fuel and produces carbon monoxide as a combustion by-product.

(38) "Furnishings" means in connection with the operation of a lodging facility, all of the following items provided in the sleeping rooms and common areas of the lodging facility: linens; beds; bedding; chairs; tables; shelves; drapes; carpeting; curtains; decorations; fixtures; and similar items.

(39) "Good repair" means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects to constitute a good and sound condition.

(40) "Ground floor" means the portion of the lodging facility, below the first floor, located on a site with a sloping or multilevel grade and which has a portion of its floor line at grade.

(41) "Guard" means any of the following:

(a) A building component or system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

(b) A barrier erected on the top bunk bed to prevent a person from falling or rolling off the sleeping surface.

(42) "Handrail" means a horizontal or sloping rail intended for grasping by a hand, for guidance or support or preventing a fall down a stair or ramp.

(43) "Hostel" means a type of lodging facility that offers dormitory style sleeping arrangements with shared toilet facilities.

(44) "Hotel" means all places wherein sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all places used within the building or structure.

(45) "Immediate family member" has the meaning given in s. 97.605 (4) (a) 2., Stats.

(46) "Imminent human health hazard" means a condition that presents a substantial likelihood to cause severe adverse health consequences or death.

(47) "Individually keyed unit" means a lodging unit that is accessed by the use of a key or other electronic device that is occupied by a tourist, transient or rental group for sleeping accommodations.

Note: Examples include a motel or hotel room, hotel suite, or a tourist rooming house.

(48) “Ladder” means a structure for climbing up or down that consists of 2 long sidepieces joined at intervals by crosspieces on which one may step.

(49) “*Legionella*” means a common aquatic bacteria found in natural waterways, building water systems, and in some soils. This genus of bacteria can cause a pneumonia called Legionnaires' disease or a flu-like illness called Pontiac fever when inhaled, aspirated, or directly introduced into the lungs of a susceptible individual.

(50) “Legionellosis” means the term used to describe Legionnaires' disease, Pontiac fever and any illness caused by exposure to *Legionella* bacteria.

(51) “License holder” means the person that is legally responsible for the operation of a lodging facility.

(52) “Lodging facility” (a) means a hotel, motel, tourist rooming house, or specialty lodging unit that provides sleeping accommodations offered for pay to tourists or transients.

(b) A lodging facility does not include:

1. A camping cabin or yurt less than 400 square feet in area located in a licensed campground under ch. ATCP 79.

2. A recreational vehicle.

(53) “Lodging place” means a lodging facility as defined in sub. (52).

(54) “Loft” means an upper room or floor that has at least 50 percent of the common wall open to the floor below.

(55) “Motel” means a hotel that furnishes on premises parking for motor vehicles of guests as part of the room charge, without extra cost, and that is identified as a “motel” rather than a “hotel” at the request of the operator.

(56) “New hotel, motel, or tourist rooming house,” means a lodging facility under new ownership operating with a license first issued by the department or its agent on or after the effective date [LRB inserts date].

(57) "Operator" means the license holder or the person designated by the license holder that demonstrates the ability to control both the interior and exterior of the lodging facility and ensures compliance with ch. ATCP 72. This control may be established either by contract, ownership rights, or the nature of the entity's management authority.

(58) "Person" means an individual, partnership, association, management company, firm, limited liability company, corporation, trust, other legal organization or entity, municipality, county, town or state agency, whether tenant, owner, lessee, licensee, or the agent, heir, or assignee of any of these.

(59) "Person in charge" means the designated individual present at a lodging facility who is responsible for the operation at the time of inspection.

(60) "Pest" means an animal or insect of public health significance that is a nuisance and may or may not transmit disease to the general public. Pest in this definition includes cockroaches, bed bugs, bats, rodents, and ticks.

(61) "Plumbing" has the meaning given in s. 145.01 (10), Stats.

(62) "Porch" means an exterior structure at or near grade, attached or adjacent to the exterior wall of a lodging facility and having a roof and floor and is not used for overnight sleeping accommodations.

(63) "Potable" has the meaning given in s. NR 812.07 (75).

(64) "Preinspection" means an inspection of a lodging facility, prior to the issuance of a license to operate, to determine compliance with the requirements of this chapter.

(65) "Premises" means the contiguous land or property where the lodging facility is located and all associated buildings or structures under the control of the license holder. A premises in this chapter includes one or more county or municipal tax parcels of land or property that share a common border.

(66) "Priority foundation item" means all of the following: (a) A provision in this rule whose application supports, facilitates, or enables one or more priority items.

(b) An item that requires the purposeful incorporation of specific actions, equipment or procedures by the operator such as personnel training, infrastructure, documentation or record keeping.

(c) An item that is denoted in this rule with a superscript Pf^{Pf}.

(67) "Priority item" means all of the following: (a) A provision in this rule directly related to health and safety that if not met or is missing could significantly contribute to an increased risk for injury or illness.

(b) An item that is denoted in this rule with a superscript P^P.

(68) "Private on-site wastewater treatment system" or "POWTS" has the meaning given in s. 145.01 (12), Stats.

(69) "Private water system" has the meaning given in s. NR 812.07 (78).

(70) "Public sewer" has the meaning given in s. SPS 381.01 (198).

(71) "Public water system" has the meaning given in s. NR 809.04 (67).

(72) "Recreational vehicle" has the meaning given in s. ATCP 79.03 (32).

(73) "Reinspection" means a mandatory or administrative follow-up inspection to ensure that a priority or recurring violation has been corrected.

(74) "Remediation plan" means a specific plan on details to identify the potential source, location and removal of a waterborne pathogen.

(75) "Rental group" means 2 or more tourists or transients occupying an individually keyed unit that is inaccessible to all others at the time of rental.

(76) "Restrict" means to limit the activities of an employee to minimize the risk of transmitting a communicable disease and ensuring that the employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

(77) "Retail food establishment" has the meaning given in s. ATCP 75.04 (33).

(78) "Riser" means the vertical surface of a stair to include the vertical surface from the ground or landing to the adjacent tread.

(79) "Room" as it relates to a hotel defined in sub. (44) means an individually keyed unit as defined in sub. (47) and may include one or more sleeping room and one or more toilet room.

(80) "Rooming house" means a one- and 2-family dwelling that offers overnight sleeping accommodation to an individual that is not a tourist or transient.

(81) "Sanitize" means to apply cumulative heat or chemicals on a cleaned food-contact surface that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

(82) "Sealed combustion appliance" means a fuel-burning appliance with a pipe used to supply outdoor air to the appliance for the combustion process and a second pipe is used to return exhaust products to the outdoors.

(83) "Single-service articles" has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(84) "Sleeping accommodations offered for pay" means all sleeping rooms on the premises offered for pay to a tourist or transient, excluding areas occupied by a tenant for 60 or more consecutive days or by the operator, owner or their immediate family.

(85) "Sleeping area" means any area of an individually keyed unit in which a sleeping room is located. Sleeping rooms separated by another area such as a kitchen or living room are considered separate sleeping areas but sleeping rooms only separated by a bathroom are not considered separate sleeping areas.

(86) "Sleeping room" means a room where a bed is located.

(87) "Smoke alarm" means an electronic or battery-operated device or system that sounds an alarm when particles or products of combustion, other than heat, are detected. Smoke alarms conform to Underwriters Laboratories standard 217 Smoke Alarms.

(88) "Smoke detector" means an electronic device or sensor that monitors for smoke and is connected to a whole building fire alarm and detection system. Smoke detectors conform to Underwriters Laboratories standard 268 Smoke Detectors for Fire Alarm Systems.

(89) "Specialty lodging" or "SL" means a type of tourist rooming house with greater than 400 square feet in area but less than 1,500 square feet, typically located in rural or natural settings, and provides an unconventional lodging experience with no liquid or water carried waste plumbing fixtures.

Note: Yurts, eco-lodges, and primitive cabins are some examples of specialty lodging.

(90) “Stair or stairway” means one or more risers that form a continuous passage from one elevation to another.

(91) “Supervisory signal” means a fire alarm control unit condition indicating there is an issue with a system, process, or equipment that is monitored by the fire alarm control unit.

Note: Common causes of supervisory signals include sprinkler system issues, suppression system problems, water flow alarms, low battery voltage, fire pumps, or system malfunctions.

(92) “Temperature measuring device” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(93) “Time/temperature control for safety food” or “TCS” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(94) “Tourist or transient” means a person who travels to a location away from their permanent address for vacation, pleasure, recreation, culture, business, or employment. ‘Tourist or transient’ does not include a person occupying a dwelling pursuant to ch. ATCP 134.

Note: ATCP 134.02(14) “Tourist or transient occupants” means tourists or other persons who occupy a dwelling unit for less than 60 days while traveling away from their permanent place of residence.

(95) “Tourist rooming house” or “TRH” means any lodging place where sleeping accommodations are offered for pay to tourists or transients.

(a) A tourist rooming house includes:

1. A lodging place with 4 or fewer individually keyed units.
2. A one- or 2-family dwelling or condominium unit where the entire residence is rented to a tourist or transient, family or rental group.
3. A tourist cabin or cottage.
4. A specialty lodging facility.

Note: A short-term rental and vacation home rental are examples of a tourist rooming house.

(b) A tourist rooming house does not include:

1. A hotel or motel.
2. A bed and breakfast establishment regulated under ch. ATCP 73.

280 3. A private boarding or rooming house.

281 (96) “Trouble signal” means a fire alarm control unit condition indicating there is an issue or fault
282 with the fire alarm system.

283 **Note:** Common causes of a trouble signal include power issues, communication errors, faulty wiring,
284 faulty devices, tampering or vandalism, system programming errors, or components nearing end-of-life.

285 (97) “Utensil” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

286 (98) “Waterborne disease outbreak” means 2 or more people that experience a similar illness after
287 exposure, ingestion or inhalation of water that epidemiologic evidence implicates as the probable source
288 of the illness or meets other exposure criteria for that specific disease.

289 (99) “Water distribution system” has the meaning given in s. SPS 381.01 (280).

290 (100) “Water management program” means the risk management plan for the prevention and control
291 of legionellosis associated with building water systems, including documentation of the plan’s
292 implementation and operation.

293 (101) “Water service” has the meaning given in s. SPS 381.01 (282).

294 (102) “Water service disruption” means a planned or unplanned event that reduces the water delivery
295 pressure below 20 pounds per square inch, including any of the following new construction tie-ins;
296 replacement of valves, hydrants, or meters; pumping failures; pipeline breaks; and other system repairs or
297 emergency conditions.

298 (103) “Water system” has the meaning given in s. NR 812.07 (118).

299 (104) “Water-use end point” means the point at which water exits from all potable and nonpotable
300 building water systems, fixtures, and equipment.

301 SUBCHAPTER II

302 LICENSING AND FEES

303 **ATCP 72.04 License holder qualifications.** To qualify for a license, an applicant shall do all of the
304 following:

305 (1) **LICENSE HOLDER.** Be the person that is legally responsible for the operation of a lodging facility.

(2) PAYMENT FOR FEES. Pay the applicable license fees pursuant to s. ATCP 72.08 Table A or B at the time the application is submitted.

Note: A person should consult with other local governmental authorities that may also require a license or permit to operate a lodging facility before submitting an application to the department or its agent.

ATCP 72.05 License holder responsibilities. Upon acceptance of the license issued by the department or its agent, the license holder shall do all of the following in order to retain the license:

(1) ACCESS. Allow an authorized representative of the department or its agent access to the lodging facility and provide any required information to that authorized representative.

(2) COMPLIANCE. Comply with the provisions of this chapter.

(3) REPORTING. Follow reporting requirements to the department or its agent, as applicable, as outlined in this chapter.

(4) OPERATIONS. Immediately discontinue operations directly related to an imminent health hazard and notify the department or its agent.

(5) REPLACEMENT. Replace or repair existing facilities and equipment that no longer comply with the criteria set forth in this chapter.

(6) CORRECTIVE ACTIONS. Comply with lawful directives of the department or its agent including meeting deadlines for taking corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department or its agent for the license holder's lodging facility or in response to community emergencies.

(7) NOTICES. Accept notices issued and served by the department or its agent according to law.

(8) PENALTIES. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter.

ATCP 72.06 Plan review. The department or its agent may require a plan review for an operator that has submitted an application for a license or has made alterations to an existing lodging facility.

Note: In addition, an operator should consult with other agencies that may also require prior plan or construction approval, such as the Wisconsin department of safety and professional services, the Wisconsin

department of natural resources, or local government authorities before commencing construction or modification of a lodging facility.

ATCP 72.07 Licenses. (1) LICENSE REQUIRED. (a) *General.* No person may operate a lodging facility where sleeping accommodations are offered for pay to a tourist or transient without obtaining a license from the department or its agent.

(b) *Change of operator.* Except as provided under par. (d), if a license holder sells or otherwise transfers ownership or operation of a lodging facility to another person, a new license is required pursuant to s. 97.605 (1) (a), Stats., and the lodging facility may not be opened to the public until the department or its agent issues a new license.

(c) *Licensing determination* 1. A single premises includes all of the following:

a. One or more county or municipal tax parcels of land or property that share a common border.

b. The lodging facility and associated buildings that are located on the land or property identified in subdpar. a.

c. The lodging facility identified in subdpar. b. is under control of the license holder.

Note: For questions regarding tax parcels contact the local land information department.

2. A separate license is required for each hotel, tourist rooming house, or specialty lodging type located on a single premises pursuant to par. (a).

(d) *Transferability of a license.* A licensee may transfer ownership of the lodging facility under any of the following:

1. Pursuant to s. 97.605 (4) (d), Stats., an individual may transfer a license to an immediate family member.

2. Pursuant to s. 97.605 (4) (e), Stats., a sole proprietorship that reorganizes as a business entity, as defined in s. 179.70 (1), Stats., or a business entity that reorganizes as a sole proprietorship or a different type of business entity may transfer a license to the newly formed business entity or sole proprietorship if the lodging facility remains at the location for which the license was issued and at least one individual who

had an ownership interest in the sole proprietorship or business entity to which the license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

3. No license issued under this chapter is transferable from one premises to another.

(e) *Notification*. Prior to the transfer of a license, a person shall notify the department or its agent before operation of the lodging facility.

Note: To notify the department of a transfer of ownership, call (608) 224 – 4923 or send an email to datcpdfslicensing@wi.gov, or mail request to PO Box 8911, Madison, Wisconsin 53708–8911, or contact the department’s agent.

(f) *Preinspection required*. 1. Before the department or its agent may issue a license to operate a lodging facility pursuant to par. (a) and s. 97.607 (1) Stats., the department or agent shall conduct a preinspection.

2. If an individually keyed unit is added to a premises of a lodging facility after the initial issuance of a license, an additional preinspection fee that corresponds to the number of units added shall be paid to the department or its agent pursuant to s. ATCP 72.08 Table A or B.

Note: For example, hotel A is licensed for 100 rooms and expands to add 50 rooms. Hotel A would be subject to the preinspection fee for 31 to 99 rooms.

3. A preinspection is not required for a transfer of a license under par. (d).

Note: To arrange a preinspection from the department contact the bureau of food and recreational businesses at (608) 224–4700, or send an email to datcpdfslicensing@wi.gov, or mail request to PO Box 8911, Madison, Wisconsin 53708–8911, or contact the department’s agent.

(2) LICENSE DURATION AND RENEWAL. (a) *Expiration*. Each license issued under this chapter expires on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year.

(b) *Annual renewal*. Each license shall be renewed annually as provided in sub. (4) (a).

(3) NEW LICENSE. (a) *Application*. The applicant shall apply on an application form provided by the department or its agent. The completed application form shall be accompanied by all of the following:

1. The applicable fees pursuant to s. ATCP 72.08 Table A or B and any fees previously due to the department or its agent under this chapter.

2. Information, as determined by the department or its agent, that indicates the lodging facility will be maintained and operated in compliance with this chapter, and applicable local, federal and state laws, as it relates to the health, safety, and welfare of the public.

Note: As provided pursuant to s. 97.615 (2) (d), Stats., a local health department granted agent status can establish and collect fees for licenses. To obtain a license application for an agent licensed lodging facility, contact the local health department.

Note: To obtain a copy of the department's lodging license application form, call (608) 224 – 4923 or send an email to datcpdfslicensing@wi.gov, or mail request to PO Box 8911, Madison, Wisconsin 53708–8911.

Note: An operator should consult with local government authorities that may also require a license or permit to operate a lodging facility including the local building and zoning agency.

(b) *Requests for preinspection.* The operator shall contact the department or its agent and arrange a time for the preinspection required pursuant to sub. (1) (f), before operating a lodging facility.

(4) LICENSE RENEWAL. (a) *Payment.* To renew a license, the operator shall pay the department the applicable license fee specified pursuant to s. ATCP 72.08 Table A or B, before the license expires. If payment to renew a license fee is not filed on or before the expiration date of the license, the late fee specified pursuant to s. ATCP 72.08 Table A or B, shall be paid in addition to the license fee. Submission of an application for a renewal license is not required.

(b) *Department or agent action on a license renewal.* 1. The department or its agent may refuse to renew a license pursuant to ss. 93.06 (7) and 97.71, Stats., and under sub. (5) (a).

2. The department or its agent shall refuse to renew a license as provided pursuant to ss. 93.06 (7) and 97.71, Stats., and under sub. (5) (b).

(5) DEPARTMENT OR AGENT ACTION ON A LICENSE. (a) *Department or agent discretion on a license.* The department or its agent may not issue a new license or renew an existing license for lodging facility unless all of the following conditions are met:

1. The operator has corrected a condition for which the department or agent has issued a written health or safety-related order.

2. The operator, applicant, or license holder has provided the department or its agent with the information required under sub. (3) (a) 2. or documentation indicating that the lodging facility is designed and constructed in accordance with state law and regulations stated in this chapter.

3. The department or its agent has determined that the operator, applicant or license holder is not in violation of ch. 97, Stats., or has only a minor violation as defined in s. 227.04 (1) (a), Stats.

(b) *License prohibited.* The department or its agent shall refuse to issue a new license or renew an existing license to operate a lodging facility under any of the following circumstances:

1. A fully and accurately completed, signed, and dated application has not been received by the department or its agent.

2. The operator is not in compliance with s. 93.135 (3) to (5), Stats.

3. The department or its agent has not conducted the preinspection required pursuant to sub. (1) (f).

4. The department or its agent has not approved the plan for the lodging facility pursuant to s. ATCP 72.06, for which a plan was requested for review.

5. The operator has not paid all of the applicable fees pursuant to s. ATCP 72.08 Table A or B.

6. The operator has modified, repaired, or maintained the lodging facility in a manner that is not in accordance with this chapter.

(c) *Conditional license.* Except as provided in s. 93.135, Stats., the initial issuance, renewal, or continued validity of a license may be conditioned pursuant to ss. 93.06 (8) and 97.605 (1p), Stats., upon the requirement that the license holder correct a violation of this chapter, pursuant to s. 97.625, Stats., within a specified period of time. If the condition is not satisfied within the specified time or after an extension of time approved by the department or its agent, the license is void. No person may operate a lodging facility after a license has been voided. Any person who does so shall be subject to the penalties pursuant to s. 97.72, Stats., an injunction pursuant to 97.73, Stats., and payment of fees pursuant to s. ATCP 72.08 (2) (e). An operator whose license is voided under this paragraph may appeal the decision

pursuant to s. ATCP 72.11. If the decision was made by the department's agent, the applicant may appeal the decision pursuant to s. ATCP 72.12.

(d) *Granting or denial of a license.* 1. The department or its agent shall issue or deny a new license or shall renew an existing license for a lodging facility within 30 calendar days after the applicant meets all of the requirements pursuant to subs. (3) or (4), as applicable.

2. If the department or its agent denies an application for a license, the applicant shall be given the decision and reason, in writing, for the denial and information regarding appeal rights pursuant to s. ATCP 72.11 and s. ATCP 72.12.

(6) VOIDED LICENSE FOR FAILURE TO PAY FEES. (a) *Payment deadline.* If an applicant or operator fails to pay all applicable fees, late fees and processing charges under s. ATCP 72.08, within 45 calendar days after the expiration of the license, the license is void.

(b) *Appeal rights.* An operator whose license is voided by the department under this subsection may appeal the decision as provided pursuant to s. ATCP 72.11 or if the license is voided by the department's agent, the operator may appeal the decision pursuant to s. ATCP 72.12. Pursuant to s. 97.605 (1) (c), Stats., in an appeal concerning voiding of a license under this subsection, the burden is on the license applicant to show that the entire applicable fees, late fees, and processing charges have been paid. During any appeal process concerning a payment dispute, the operation of the lodging facility in question is considered to be in operation without a license.

(7) LICENSE POSTING. A current license issued by the department or its agent shall be posted on the premises in a place visible to the public. A license may not be altered or defaced.

ATCP 72.08 Department fees. (1) FEE SCHEDULE. Pursuant to s. 97.605 (1) (c), Stats., no license may be issued until all applicable fees have been paid. Fee amounts listed in s. ATCP 72.08 Table A or B apply to lodging facility licenses issued by the department under this chapter.

Note: Local health departments that are agents for the department have authority pursuant to s. 97.615 (2) (d), Stats., to establish and collect fees for licenses issued by the local health department. If the

establishment is under the jurisdiction of a local health department, contact the local health department for its license fee schedule.

(2) TYPES OF FEES. (a) *Preinspection fee*. 1. For a new license, the operator shall pay the applicable preinspection fee listed in s. ATCP 72.08 Table A or B to the department before the license is issued pursuant to s. ATCP 72.07 (3).

2. If an individually keyed unit is added to a premises of a lodging facility after the initial issuance of a license, an additional preinspection fee that corresponds to the number of units added shall be paid to the department pursuant to s. ATCP 72.08 Table A or B.

Note: For example, hotel A is licensed for 100 rooms and expands to add 50 rooms. Hotel A would be subject to the preinspection fee for 31 to 99 rooms.

(b) *License fee*. The operator shall pay the applicable license fee listed in s. ATCP 72.08 Table A or B to the department for each lodging facility type for which the operator applies for a new or renewal license.

(c) *Late fee*. If the license fee for a license renewal is not paid on or filed before the expiration date of the license, the operator shall pay to the department a late fee as specified in s. ATCP 72.08 Table A or B pursuant to s. 93.21 (5) (b), Stats., in addition to the renewal license fee.

(d) *Reinspection or administrative follow-up fee*. If the department conducts a reinspection or an administrative follow-up of a lodging facility pursuant to s. ATCP 72.09 (1) (b) 1., the operator shall pay to the department the applicable reinspection or administrative follow-up fee listed in s. ATCP 72.08 Table A or B. The department shall assess an additional fee as listed in s. ATCP 72.08 Table A or B, whichever is applicable, for any second or subsequent reinspection or administrative follow-up conducted pursuant to s. ATCP 72.09 (1) (b) 4.

(e) *Fees for operating without a license*. If a lodging facility is found to be operating without a license, the operator shall pay to the department an amount of \$749.00, in addition to all applicable fees and any processing charges pursuant to sub. (3).

Note: A person operating a lodging facility without a license is also subject to the penalties in ss. 97.72 and 97.73, Stats.

(f) *Fees for special condition inspections.* For inspection or consultation activities that are not directly related to the department's licensing responsibilities for issuing licenses, the department shall charge the operator or the entity requesting the inspection or consultation \$175.00.

Note: An example includes a buyer that wants an inspection or consultation prior to a real estate transaction.

(3) **PENALTIES FOR INSUFFICIENCY OF PAYMENT.** If the payment for a new or renewal license is by check or other draft drawn upon an account containing insufficient funds, the applicant or operator shall, within 15 calendar days after receipt of notice from the department of the insufficiency, pay all applicable fees under sub. (1), and the financial institution's processing charges by cashier's check or other certified draft, or money order.

ATCP 72.08 Table A

For licenses issued April 1, 2026 through March 31, 2028

Hotel, Motel, Specialty Lodging, Tourist Rooming House License Fee Category	License Fee	Preinspection Fee	First Reinspection or Administrative Follow-Up Fee	Second and Subsequent Reinspection or Administrative Follow-Up Fee	Late Fee
Tourist Rooming House (TRH) (Lodging unit is based on individually keyed units)					
1 TRH	\$296.00	\$592.00	\$150.00	\$200.00	\$85.00
2 to 4 TRH's	\$450.00	\$900.00	\$150.00	\$200.00	\$85.00
5 to 9 TRH's	\$550.00	\$1,100.00	\$150.00	\$200.00	\$85.00
10 to 19 TRH's	\$600.00	\$1,200.00	\$150.00	\$200.00	\$85.00
20 to 39 TRH's	\$700.00	\$1,400.00	\$150.00	\$200.00	\$85.00
40 to 99 TRH's	\$800.00	\$1,600.00	\$150.00	\$200.00	\$85.00
100 to 299 TRH's	\$900.00	\$1,800.00	\$150.00	\$200.00	\$85.00
300 to 599 TRH's	\$1,000.00	\$2,000.00	\$150.00	\$200.00	\$85.00
600+ TRH's	\$1,100.00	\$2,200.00	\$150.00	\$200.00	\$85.00
Hotel and Motel (rooms are based on individually keyed units)					
5 to 30 Rooms	\$350.00	\$700.00	\$150.00	\$200.00	\$85.00
31 to 99 Rooms	\$450.00	\$900.00	\$150.00	\$200.00	\$85.00
100 to 249 Rooms	\$550.00	\$1,100.00	\$150.00	\$200.00	\$85.00
250 to 499 Rooms	\$650.00	\$1,300.00	\$150.00	\$200.00	\$85.00
500 to 749 Rooms	\$750.00	\$1,500.00	\$150.00	\$200.00	\$85.00
750 to 1000 Rooms	\$850.00	\$1,700.00	\$150.00	\$200.00	\$85.00
1000+ Rooms	\$950.00	\$1,900.00	\$150.00	\$200.00	\$85.00
Specialty Lodging (SL) (Lodging unit is based on an individually keyed units)					

528	1 SL	\$296.00	\$592.00	\$150.00	\$200.00	\$85.00
529	2 to 4 SL's	\$450.00	\$900.00	\$150.00	\$200.00	\$85.00
530	5 to 9 SL's	\$550.00	\$1,100.00	\$150.00	\$200.00	\$85.00
531	10 to 19 SL's	\$600.00	\$1,200.00	\$150.00	\$200.00	\$85.00
532	20 to 39 SL's	\$700.00	\$1,400.00	\$150.00	\$200.00	\$85.00
533	40 to 99 SL's	\$800.00	\$1,600.00	\$150.00	\$200.00	\$85.00

ATCP 72.08 Table B

For licenses issued on or after April 1, 2028

538	Hotel, Motel,	License	Preinspection	First	Second and	Late
539	Specialty Lodging,	Fee	Fee	Reinspection	Subsequent	Fee
540	Tourist			or	Reinspection or	
541	Rooming House			Administrative	Administrative	
542	License Fee			Follow-Up Fee	Follow-Up Fee	
543	Category					

Tourist Rooming House (TRH) (Lodging unit is based on individually keyed units)

546	1 TRH	\$311.00	\$621.50	\$150.00	\$200.00	\$85.00
547	2 to 4 TRH's	\$472.50	\$945.00	\$150.00	\$200.00	\$85.00
548	5 to 9 TRH's	\$577.50	\$1,155.00	\$150.00	\$200.00	\$85.00
549	10 to 19 TRH's	\$630.00	\$1,260.00	\$150.00	\$200.00	\$85.00
550	20 to 39 TRH's	\$735.00	\$1,470.00	\$150.00	\$200.00	\$85.00
551	40 to 99 TRH's	\$840.00	\$1,680.00	\$150.00	\$200.00	\$85.00
552	100 to 299 TRH's	\$945.00	\$1,890.00	\$150.00	\$200.00	\$85.00
553	300 to 599 TRH's	\$1,050.00	\$2,100.00	\$150.00	\$200.00	\$85.00
554	600+ TRH's	\$1,155.00	\$2,310.00	\$150.00	\$200.00	\$85.00

Hotel and Motel (rooms are based on individually keyed units)

557	5 to 30 Rooms	\$367.50	\$735.00	\$150.00	\$200.00	\$85.00
558	31 to 99 Rooms	\$472.50	\$945.00	\$150.00	\$200.00	\$85.00
559	100 to 249 Rooms	\$577.50	\$1,155.00	\$150.00	\$200.00	\$85.00
560	250 to 499 Rooms	\$682.50	\$1,365.00	\$150.00	\$200.00	\$85.00
561	500 to 749 Rooms	\$787.50	\$1,575.00	\$150.00	\$200.00	\$85.00
562	750 to 1000 Rooms	\$892.50	\$1,785.00	\$150.00	\$200.00	\$85.00
563	1000+ Rooms	\$997.50	\$1,995.00	\$150.00	\$200.00	\$85.00

Specialty Lodging (SL) (Lodging unit is based on an individually keyed units)

566	1 SL	\$311.00	\$621.50	\$150.00	\$200.00	\$85.00
567	2 to 4 SL's	\$472.50	\$945.00	\$150.00	\$200.00	\$85.00
568	5 to 9 SL's	\$577.50	\$1,155.00	\$150.00	\$200.00	\$85.00
569	10 to 19 SL's	\$630.00	\$1,260.00	\$150.00	\$200.00	\$85.00
570	20 to 39 SL's	\$735.00	\$1,470.00	\$150.00	\$200.00	\$85.00
571	40 to 99 SL's	\$840.00	\$1,680.00	\$150.00	\$200.00	\$85.00

SUBCHAPTER III

ENFORCEMENT AND APPEALS

ATCP 72.09 Enforcement. (1) INSPECTIONS AND ACCESS TO PREMISES. (a) *Inspections.* Pursuant to

ss. 93.07 (24) (e), 93.08, and 97.65, Stats., an authorized employee or agent of the department, upon presenting proper identification, may enter any lodging facility or premises at any reasonable time, for any of the following purposes:

1. To inspect the lodging facility.
2. To determine if there has been a violation of this chapter or ss. 97.605 to 97.65, Stats.
3. To determine compliance with previously written orders to correct violations.
4. To secure samples or specimens.
5. To examine and copy relevant documents and records related to the operation of the lodging facility.
6. To obtain photographic or other evidence needed to enforce this chapter.

(b) *Reinspection or administrative follow-up.* 1. The department or its agent may perform a reinspection or an administrative follow-up at a lodging facility whenever an inspection or the investigation of a complaint reveals any of the following conditions:

- a. Presence of an imminent hazard that cannot be corrected during the inspection.
- b. An inspection reveals 6 or more priority violations, regardless if they have been corrected during the inspection.
- c. Repeat violations, whether corrected during the inspection or not, are documented on 3 consecutive inspections regardless of inspection type.
- d. The department's authorized representative and that representative's supervisor determine there is a lack of active managerial control at the lodging facility, based on the quantity and the criticality of the violations observed on the most recent inspection.

2. A reinspection or administrative follow-up shall be scheduled to allow the operator a reasonably sufficient time to correct the violations.

3. A reinspection or administrative follow-up fee shall be charged for the reinspection or administrative follow-up in the amount listed in s. ATCP 72.08 Table A or B or applicable amount as determined by an agent of the department.

4. If an additional reinspection or administrative follow-up is required because a violation has not been corrected in the scheduled time, the department or its agent shall assess a second or subsequent reinspection or administrative follow-up fee in the amount listed in s. ATCP 72.08 Table A or B, pursuant to s. ATCP 72.08 (2) (d), and the department or its agent may order the operator to show just cause why the license should not be suspended or revoked, pursuant to s. ATCP 72.10.

(2) GENERAL ORDERS TO CORRECT VIOLATIONS. (a) *Written orders*. If, upon inspection of a lodging facility, the department or agent finds that the lodging facility is not designed, constructed, equipped, or operated as required under this chapter, the department or its agent shall issue a written order to correct the violation. The order shall specify the correction needed for compliance and the time period within which the correction shall be made. The time period specified in the order may be extended at the discretion of the department or its agent as specified in par. (c).

(b) *Failure to correct a violation*. 1. If a violation is not corrected by the expiration of the time period stated in the order given pursuant to par. (a), or any extension of time granted pursuant to par. (c), the department or its agent may issue a special order pursuant to s. ATCP 72.10 to suspend or revoke the license to operate the lodging facility. An order for suspension or revocation shall take effect as provided pursuant to s. ATCP 72.10.

2. Pursuant to ss. 97.12 (5), 97.65 (5), and 97.72, Stats., any person who fails to comply with an order of the department or its agent may be subject to a forfeiture or criminal penalties. A person may appeal a forfeiture pursuant to s. ATCP 72.11 or s. ATCP 72.12.

(c) *Requests for an extension to correct a violation*. 1. The department or its agent may extend the time to correct a violation based on a determination of the seriousness of the violation, the operator's progress towards correcting the violation, and the operator's previous history of compliance.

2. To request an extension to correct a violation, the operator shall contact the department or its agent before the time specified in the written order to correct the violation expires. The operator shall provide information that demonstrates to the department or its agent that corrective action has been initiated, but additional time is needed to fully correct the violation.

628 (3) TEMPORARY ORDERS. (a) *Conditions for a temporary order.* As provided in s. 97.65 (2) (a), Stats.,

629 whenever, as a result of an inspection pursuant to sub. (1), the department or its agent has reasonable cause
630 to believe that any construction, sanitary condition, operation, or method of operation of the premises or
631 equipment used on the premises creates an immediate danger to health, the department or its agent may
632 issue a temporary order and cause it to be delivered to the licensee, the owner, or the person in charge.
633 The order may prohibit the continued operation or method of operation of specific equipment, or require
634 the premises to cease other operations or methods of operation which create the immediate danger to
635 health, or set forth any combination of these requirements. The department or its agent may order the
636 cessation of all operations authorized by the license only if a more limited order does not remove the
637 immediate danger to health.

638 (b) *Duration of a temporary order; action prohibited.* 1. A temporary order shall take effect upon
639 delivery to the operator or responsible supervisor. Except as provided in par. (c), the temporary order shall
640 remain in effect for 14 calendar days from the date of delivery, but a temporary order may be reissued for
641 one additional 14 calendar day period if necessary to complete any analysis or examination of samples,
642 specimens, or other evidence.

643 2. No operation or method of operation prohibited by the temporary order may be resumed without the
644 approval of the department or its agent until the order has terminated or the time period specified in subd.
645 1. has expired, whichever occurs first, unless, as provided pursuant to par. (c), the department or its agent
646 provides notice that an immediate danger to health or safety is present. If, upon completed analysis or
647 examination, the department or agent determines that construction, sanitary condition, operation, or method
648 of operation of the premises or equipment does not constitute an immediate danger to health or safety, the
649 department or its agent shall immediately notify the licensee, the owner, or the person in charge in writing
650 and the temporary order shall terminate upon receipt of the written notice.

651 (c) *Notice of findings upon analysis or examination.* If the analysis or examination under sub. (1),
652 shows that the construction, sanitary condition, operation or method of operation of the premises or
653 equipment constitutes an immediate danger to health or safety, the department or its agent, within the

effective period of the temporary order specified in par. (b) 1., shall provide written notice of the findings to the owner, operator or responsible supervisor. Upon receipt of the notice, the temporary order remains in effect until a final decision is issued pursuant to s. ATCP 72.10. The notice if issued by the department shall include a statement that the facility has a right to request a hearing pursuant to s. ATCP 72.11, within 15 calendar days after issuance of the notice.

(d) *Failure to comply with temporary order; forfeitures and penalties.* 1. Pursuant to s. 97.65 (5) (a), Stats., any person who fails to comply with a temporary order issued by the department or its agent may be fined not more than \$10,000 or imprisoned not more than one year in the county jail, or both.

2. Pursuant to s. 97.72 (2), in lieu of any criminal penalty, a person who violates provisions in ATCP 72 may be required to forfeit not more than \$1,000 for each violation.

(4) ACTION PLANS. (a) *Required components.* When required by the department, its agent, or this chapter, the operator shall develop, on a form provided by the department, an action plan for compliance and the license is conditioned until all issues identified in the action plan have been resolved. The action plan shall include all of the following:

1. A description of the violation and code citation.
2. The steps the operator will take to correct the violation.
3. The date by which compliance will be achieved.

(b) *Conditional status.* Pursuant to s. ATCP 72.07 (5) (c), the operator's license shall be placed in a conditional status.

(c) *Continued noncompliance.* The department or its agent shall void the lodging facility license pursuant to s. ATCP 72.07 (5) (c), if the operator continues to be out of compliance or fails to meet the objectives outlined in the action plan past the date provided in the action plan.

ATCP 72.10 Suspension or revocation of license. Pursuant to ss. 97.12 (3) (b), 93.06 (7), and 97.71, Stats., the department or its agent may, by summary order and without prior notice or hearing, suspend a license issued under this chapter if the department or its agent finds that there has been a substantial failure to comply with the applicable requirements of ch. 97, Stats., and this chapter and that the continuation of

the violations constitutes a serious danger to public health. The order shall be in writing, have the force and effect of an order issued pursuant to s. 93.18, Stats., and is subject to the right of hearing before the department or its agent, if requested within 10 calendar days after the date of service.

ATCP 72.11 Appeals of actions by the department. (1) APPEALS OF DEPARTMENT ACTIONS. A request for a contested case hearing shall be filed with the department Secretary pursuant to s. ATCP 1.06. A request for hearing on a department action does not automatically stay or modify that action.

(2) APPEALS OF DEPARTMENT ORDERS. If requested in writing within 15 calendar days after date of the service of an order, a hearing shall be conducted pursuant to s. 227.42, Stats., and ch. ATCP 1. Enforcement of the order shall not be stayed pending action on the hearing. A request for hearing does not automatically stay or modify a summary special order.

Note: A request for hearing shall be submitted to the department Secretary via e-mail at datcpappeals@wisconsin.gov, faxed to (608) 224-5034, mailed to PO Box 8911, Madison, Wisconsin 53708-8911, or hand delivered to 2811 Agriculture Drive, Madison, Wisconsin 53718.

ATCP 72.12 Appeals of actions by agent health departments. If an agent issues a license under this chapter, the operator shall appeal an enforcement action to the agent health department.

SUBCHAPTER IV

STANDARDS FOR A LODGING FACILITY

ATCP 72.13 Qualifications of an authorized representative conducting inspections. An authorized representative of the department or its agent who inspects a lodging facility or conducts a plan review for compliance with ch. ATCP 72, shall meet the staffing qualification requirements set forth in s. ATCP 74.08 or as specified by the department.

ATCP 72.14 Inspections. (1) REFUSED INSPECTION; PROCESS. If a person denies access to the department or its agent, the department or its agent shall inform the person of all the following:

(a) *Access.* The license holder is required to allow access to the department or its agent as specified pursuant to ss. 93.08 and 97.65 (1), Stats.

(b) *License conditions.* Access is a condition of the acceptance and retention of a license to operate a lodging facility as specified pursuant to s. ATCP 72.05 (1).

(c) *Special inspection warrant.* If the lodging facility license holder denies access to an authorized representative of the department or its agent, the department or its agent may apply for a special inspection warrant to allow access pursuant to s. 66.0119, Stats.

(2) REPORTING OF REFUSED ACCESS. If the person in charge continues to refuse access after the department or its agent presents credentials, provides the explanation in sub. (1), and makes a final request for access, the department or its agent shall document details of the denial of access on an inspection report form.

(3) FREQUENCY OF INSPECTION. The department or its agent shall inspect a lodging facility at least once during the licensing period. The agent may propose a different inspection frequency to the department which may only be implemented if approved by the department in writing.

(4) INSPECTION DOCUMENTATION. The department or its agent shall document all of the following on an inspection report form: (a) *Facility information.* Administrative information about the lodging facility's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply, sewage disposal, and status of the license at the lodging facility.

(b) *Violation documentation.* The conditions or other violations from this chapter or applicable chapters shall be documented to include the required corrective action by the license holder. An accompanying narrative shall contain all of the following:

1. A factual description of the violation observed, including location of the observed violation.
2. Citation and a brief description of the statute or administrative rule that was observed to be violated.
3. A statement indicating what corrective action the license holder has taken, or shall take, to regain compliance with the administrative rule or statute.
4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action deadline. The corrective action deadline shall be based on the following criteria:

a. A violation of a priority item shall be corrected immediately. Depending on the nature of the potential hazard involved and the complexity of the corrective action needed, the department or its agent may agree to or specify additional time, for the license holder to correct violations of a priority item as defined in this chapter. The additional time shall not exceed 3 calendar days after the inspection unless otherwise specified by statute.

b. The license holder has a maximum time of 10 calendar days after the inspection for the license holder to correct violations of a priority foundation item as defined in this chapter.

c. The license holder shall correct core items, as defined in this chapter, by a deadline agreed to or specified by the department or its agent, but no later than 90 calendar days after the inspection. The department or its agent may approve an action plan pursuant to s. ATCP 72.09 (4) if no health hazard will result from allowing an extended schedule for compliance.

(5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. (a) *Signature.* At the conclusion of the inspection, an authorized representative of the department or its agent shall sign the completed inspection report. Except as provided in par. (b), the department or its agent shall review the inspection findings with the person in charge and obtain a signature on the inspection report from the license holder's designated person in charge.

(b) *Availability.* If the license holder's designated person in charge is not available to sign the completed inspection report, the department or its agent shall document the unavailability of a person in charge in the inspection report.

(c) *Receipt.* A copy of the inspection report shall be provided to the designated person in charge at the completion of the inspection, emailed or otherwise delivered within 2 business days after completion of the inspection.

(6) REFUSAL TO SIGN INSPECTION REPORT. If the license holder's designated person in charge or representative refuses to sign the inspection report, the department or its agent shall do all of the following:

(a) *Signature is not agreement with findings.* Inform the person who declines to sign the inspection report that a written acknowledgment of receipt is not an agreement with findings.

(b) *Obligation to correct violations.* Inform the person that refusal to sign the inspection report will not affect the license holder's obligation to correct the violations noted in the inspection report by the deadlines specified.

(c) *Documentation.* Document the refusal to sign in the inspection report.

(7) POSTING OF INSPECTION REPORTS. The department and its agents shall make inspection report information available to the public on the internet.

SUBCHAPTER V

GENERAL PROVISIONS

ATCP 72.15 Health and safety standard. Pursuant to s. 97.62, Stats., a lodging facility shall be operated and maintained with a strict regard to public health and safety.^P

ATCP 72.16 Water supply; water systems and plumbing.

(1) WATER SYSTEMS. (a) *General.* The water source used to supply a lodging facility shall be a public or a private water system.

(b) *Well construction.* The operation, construction, installation, materials, and maintenance of the water system used to supply water to the lodging facility shall comply with well construction standards, as enforced by the Wisconsin department of natural resources.

Note: For more information regarding well construction standards, see ch. NR 812.

(c) *Location.* Except as provided under par. (d), the private well shall be located on the premises.

(d) *Shared private wells.* If the operator shares a well that is not located on the premises, the operator shall provide a signed written agreement detailing the physical location of the well and the parties responsible for maintaining the system.^{Pf}

(2) POTABLE WATER SUPPLY. (a) *Drinking water standards.* A lodging facility's potable water supply shall: 1. For a public water system, meet the groundwater quality standards in ch. NR 809, as enforced by the Wisconsin department of natural resources.^P

2. For a private water system, meet the groundwater quality standards in subs. (e) and (f).^P

Note: For public drinking water well data visit, <https://dnr.wisconsin.gov/topic/Groundwater/GRN.html>.

(b) *Availability*. Except as specified under par. (d), each lodging facility shall be provided with a potable water supply under pressure.

(c) *Water temperature*. Handwashing sinks and fixtures used for bathing shall be equipped to provide water at a temperature of at least 85°F through a mixing valve or combination faucet. ^{Pf}

(d) *Temporary water service disruptions*. The operator shall inform guests of any water service disruptions to the water supply and shall provide potable water using any one of the following methods ^P:

1. Commercially bottled drinking water.
2. An enclosed vehicular water tank designed for transporting potable water.
3. Other methods approved by the department or its agent.

(e) *Private well water testing; bacteriological*. 1. The operator shall have bacteriological analysis performed for total coliform and *Escherichia coli* consistent with approved testing methods pursuant to s. ATCP 77.02 (3). ^{Pf}

2. *Escherichia coli* analysis shall not exceed zero colony forming units pursuant to and s. NR 140.10. ^P

3. Total coliform analysis shall not exceed zero colony forming units pursuant to and s. NR 140.20 (3).

^{Pf}

(f) *Private well water testing; nitrates*. 1. The operator shall conduct nitrate analysis consistent with approved testing methods pursuant to s. NR 149.41. ^{Pf}

2. The analysis of the nitrate concentration in the well water shall not exceed 10 milligrams per liter (mg/L) pursuant to s. NR 140.10. ^P

3. If the analysis of the nitrate concentration in the well water exceeds 10 mg/L, it is considered an unsafe potable water source and the operator shall follow the requirements under par. (h) 3. ^P

(g) *Private well water testing; frequency, location, approved methods, and notification*.

1. The operator shall test the water from a private well at least once every 12 months from the date that the previous sample was completed. ^{Pf}

Note: A private well sampled in March would have to be sampled again by March 31st the following year.

a. Bacteriological test results for total coliform that exceed zero colony forming units shall be resampled at a frequency determined by the department. ^{Pf}

b. Continued resampling for bacteriological test results for total coliform that exceed zero colony forming units shall follow the requirements specified in par. (h) 2. ^{Pf}

2. The water sample shall be obtained from one of the following:

a. A faucet regularly used by tourists or transients.

b. A sample faucet.

c. An outdoor faucet may be used if all indoor faucets are made of material that cannot be flamed for disinfection.

3. Private well water analysis shall be performed by a Wisconsin department of natural resources drinking water certified laboratory or Wisconsin department of agriculture, trade and consumer protection drinking water certified laboratory.

4. The operator shall notify the department or its agent when:

a. The bacteriological test results for *Escherichia coli* exceed zero colony forming units as specified in par. (e) 2. ^P

b. The bacteriological test results for total coliform exceed zero colony forming units as specified in par. (e) 3. ^{Pf}

c. The nitrate test results exceed 10 mg/L as specified in par. (f) 2. ^P

Note: Bottles for collection of water samples may be obtained by writing to the Wisconsin state laboratory of hygiene, 2601 Agriculture Drive, Madison, WI 53708 or by calling (800) 442 – 4618.

Note: To find a list of Wisconsin department of natural resources drinking water certified laboratories visit <https://dnr.wisconsin.gov/topic/labCert/certified-lab-lists>.

(h) *Unsafe potable water.* The operator shall:

1. Prohibit the use of the entire private water system when bacteriological analysis under par. (e) 2. confirms the presence of *Escherichia coli*. ^P

2. Discontinue the use of a private water system for drinking water when bacteriological analysis under par. (e) 3., of total coliform is positive on 3 consecutive well water samples and provide an approved water source as required under par. (i).^P

3. Discontinue the use of a private water system for drinking water and food preparation when nitrate levels exceed the requirements under par. (f) 3. and provide an approved water source as required under par. (i).^P

4. If required to discontinue the use of the private water system under subd. 2. or 3., the operator shall post signage indicating the water is unsafe for human consumption.^{Pf}

(i) *Alternatives to a private water supply when the use is discontinued for food preparation or drinking water.* As required under subd. 2. and 3., water for food preparation and drinking shall be provided from any of the following sources:

1. Commercially sealed water jugs or commercially sealed bottled water provided to the guest upon check-in.^P

2. Obtained from or contracted with a licensed water distribution service pursuant to ch. ATCP 70.^P

(3) WATERBORNE DISEASES. (a) *Department notification.* The operator shall contact the department or its agent for operational and testing guidance when notified of a suspected waterborne illness.

(b) *Suspected waterborne disease outbreak investigation.* Pursuant to s. ATCP 72.09 (1) (a), as part of the investigation or inspection, the department or its agent may secure water samples for analysis.

(c) *Confirmed waterborne disease outbreak.* A lodging facility that has a waterborne disease outbreak, as confirmed through laboratory analysis, shall complete all of the following:

1. Prevent continued exposure by implementing any of the following methods:

a. Immediately discontinue public access to affected fixtures, equipment, and areas.^P

b. Install point of use water treatment filters, where applicable.^P

c. Other safeguards approved by the department.^P

d. A combination of subd. a., b., or c.^P

2. Develop a written remediation plan that includes all of the following^P:

- a. Identify the source of the waterborne pathogen. ^{Pf}
- b. Identify the locations affected by the waterborne pathogen. ^{Pf}
- c. The method that will be used to remove the pathogen from locations identified in subdpar. a. and b. ^{Pf}
3. Execute the remediation plan. ^P
4. Collect post-remediation samples at least 48 hours after the execution of the remediation plan for locations identified under subd. 2. a. and b. ^P
5. Obtain approval from the department or its agent to resume normal operations in affected areas. ^P
6. If the confirmed waterborne disease outbreak is associated with *Legionella spp.*, the operator, in addition to the requirements in par. (c), shall complete all of the following:
- a. Notify incoming guests and staff about possible exposure to *Legionella* and symptoms of legionellosis until the operator has received approval from the department or its agent to resume normal operations. ^{Pf}
- b. Notify guests from the previous 14 calendar days of the confirmed waterborne disease outbreak in writing as approved by the department about possible exposure to *Legionella* and symptoms of legionellosis. ^{Pf}
- c. Develop and implement a water management program as approved by the department. ^P
- Note:** Resources for developing a water management plan include ANSI/ASHRAE standard 188 Legionellosis: Risk Management for Building Water Systems or the United States centers for disease control and prevention toolkit: Developing a *Legionella* Water Management Program.
- d. Arrange for sampling validation to be conducted at an Environmental *Legionella* Isolation Techniques Evaluation certified laboratory in accordance with the frequency established for sampling under subdpar. c. ^{Pf}

Note: Laboratories can test their *Legionella* isolation techniques against standardized samples through the Environmental *Legionella* Isolation Techniques Evaluation Program. Participating labs receive a panel of lyophilized test samples twice each year from the Wisconsin State Laboratory of Hygiene. Some of the

test samples are *Legionella* positive and some are *Legionella* negative. The test samples may also include other organisms commonly found in water. Participating labs process the test samples and report their results. Those labs that correctly identify *Legionella* in 2 consecutive panels receive documentation for passing the proficiency test.

(4) PLUMBING. (a) *General.* A lodging facility shall meet Wisconsin building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300 to 399, as applicable, as enforced by the Wisconsin department of safety and professional services.

(b) *Backflow prevention.* A backflow or backsiphonage prevention device shall be installed on plumbing fixtures where the potential for contamination of the potable water supply exists.^P

Note: Examples include mop sinks and chemical dispensing devices.

(c) *Air gap.* When an air gap is required one of the following methods shall be used:

1. For waste piping one inch or less in diameter, the distance of the air gap shall be at least twice the diameter of the waste piping.^P

2. For waste piping larger than one inch in diameter, the distance of the air gap shall not be less than 2 inches.^P

Note: An example includes a hotel ice dispenser where the required air gap is between the ice making water drain line or ice bin drain line and the floor drain.

ATCP 72.17 Sewage disposal system. (1) SEWAGE. A lodging facility shall meet Wisconsin building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300 to 399, as applicable, as enforced by the Wisconsin department of safety and professional services.

(2) DISCHARGE. Sewage, including all liquid and water-carried wastes from plumbing fixtures shall discharge into a public sewer or POWTS.^P

(3) POWTS DISPOSAL. (a) *Designed, constructed and operated.* Any POWTS system used by a lodging facility under this chapter shall be located, designed, constructed and operated in accordance with the state uniform plumbing code as enforced by the Wisconsin department of safety and professional services.

(b) *POWTS access cover*. The operator shall ensure that an access opening cover to a POWTS is locked or secured to prevent general access by the public, except for inspection, evaluation, maintenance, or servicing purposes. ^P

(4) FAILED SEWAGE DISPOSAL SYSTEM. A non-functional public sewer or a failing POWTS, as determined by the Wisconsin department of safety and professional services or the local government authority, shall be brought into compliance, replaced or its use discontinued. ^P

(5) TOILET FACILITIES. (a) *Private fixtures*. Except as specified in par. (b), an individually keyed unit shall provide a minimum of one toilet, one sink located in or adjacent to the toilet room, and a shower or bathtub.

(b) *Shared fixtures*. 1. A hostel or an existing lodging facility that does not meet the requirements under par. (a) shall provide a minimum of one toilet, one sink located in or adjacent to the toilet room, and a shower or bathtub for every 10 tourists or transients or fraction thereof.

Note: For example, to determine fraction thereof, any number of guests between 11 and 19 would require 2 toilets, 2 sinks, and 2 showers or bathtubs.

2. All toilet stalls or rooms shall be provided with a privacy lock.

3. In an owner-occupied lodging facility, the owner or operator shall have their own toilet facility separate from a toilet facility provided to the tourist or transient.

(c) *Alternatives to water-carried waste*. Portable toilets, composting toilet systems, incinerating toilets, and privies shall comply with the requirements for alternatives to water-carried waste plumbing fixtures as enforced by the Wisconsin department of safety and professional services or the local government authority.

Note: For more information regarding alternatives to water-carried waste plumbing fixtures, see ch. SPS 391.

(d) *Soap and towels*. Each toilet room shall be provided with soap, hand towels, or other approved means of drying hands, and an adequate supply of toilet paper, upon guest arrival. ^{Pf}

(e) *Waste receptacle*. Each toilet room shall be provided with a waste receptacle.

(f) *Slip-resistant flooring in showers and bathtubs.* Slip-resistant flooring or materials shall be provided in all shower and bathtub basins. ^P

Note: Examples of slip-resistant flooring or materials include grouted tile, anti-slip tape, bathmat, or textured surface.

ATCP 72.18 Building structure and safety. (1) GENERAL. (a) *Wisconsin building code.* A lodging facility shall meet the Wisconsin building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300 to 399, as applicable, as enforced by the Wisconsin department of safety and professional services.

(b) *Department specific health and safety standards for a lodging facility.* A lodging facility shall meet the minimum health and safety standards in subs. (2) to (11).

Note: Sub. (b) refers to the minimum health and safety standards that need to be met to operate a lodging facility. Please consult with other local or State government agencies as additional or stricter requirements may apply.

(2) SLIPS, TRIPS AND FALLS. Except as specified under par. (c), a lodging facility shall meet all of the following:

(a) *Handrails.*

1. At least one handrail shall be provided for a flight of stairs with more than 3 risers. ^{Pf}
2. The height of the handrail shall be between 30 to 38 inches measured vertically from the nose of the tread to the top of the handrail. ^{Pf}

(b) *Guards.*

1. Guards shall be provided on all open sides of stairs consisting of more than 3 risers. ^{Pf}
2. All elevated surfaces in interior and exterior areas of a lodging facility shall be provided with guards on all open sides that are elevated more than 30 inches above the floor or grade, including lofts, open sides of landings, platforms, decks, balconies or porches that are attached to the lodging facility. ^{Pf}
3. The space between guards, and the space formed between the bottom guard and the elevated walking surface, shall be equal to or less than 6 inches. ^{Pf}
4. The space between open risers on stairways shall be equal to or less than 6 inches. ^{Pf}

5. If a triangular area is formed by the tread, riser and bottom guard of a stairway then it shall be equal to or less than 8 inches in width. ^{Pf}

6. Guard height shall meet all of the following:

a. Except as specified in b., equal to or greater than 36 inches on elevated walking surfaces as measured vertically above the adjacent walking surface. ^{Pf}

b. On a stairway, may be less than 36 inches as measured vertically from the nose of the stair tread to the underside of a compliant stair handrail under par. (a) 2. ^{Pf}

(c) *Exemptions.* Requirements under par. (a) and (b), do not apply to window wells, egress wells, retaining walls, or other landscaping features, or walkways or stairs, landings, platforms, decks, balconies or porches that are not attached to the lodging facility.

(3) SLEEPING ROOMS. (a) *Ceiling height.* 1. Except as specified under subd. 2., every sleeping room shall have a minimum ceiling height of 7 feet (2.13 m).

2. In sleeping rooms where a portion of the ceiling height is less than 7 feet, at least 50 percent of the room's floor area shall have a ceiling height of at least 7 feet, areas with a ceiling height of less than 5 feet are not included in determining the room's floor area.

(b) *Spacing and number of occupants in a sleeping room.* 1. Beds shall be arranged to provide an aisle at least 2 feet in width from one side of each bed to create a clear path for emergency egress. ^{Pf}

2. The number of occupants per bed shall not exceed the following:

a. No more than one occupant for a mattress width of 50 inches or less. ^{Pf}

b. No more than 2 occupants for a mattress width of more than 50 inches. ^{Pf}

3. The number of individuals in a sleeping room shall not exceed the requirements established under subd. 2. or the posted occupancy limit established and enforced by a local government agency, whichever is less. ^{Pf}

(c) *Bed placement.* Bed placement shall afford the occupant with maximum ceiling height clearance for emergency egress. ^{Pf}

(d) *Bunk beds*. If a bunk bed is provided in a lodging facility, the operator shall ensure all of the following requirements are met:

1. No more than 2 beds may be stacked vertically. ^P

2. There shall be a vertical separation of at least 2.5 feet measured from the top of the lower mattress to the bottom of the frame of the upper bunk bed. ^{Pf}

3. A free space of at least 2.5 feet shall be provided above the mattress of the upper bunk bed. ^{Pf}

4. The upper bunk bed shall be provided with permanently installed guards and shall meet all of the following: ^P

a. The top of the guard shall be at least 5 inches above the top of the mattress. ^{Pf}

b. The bottom of the guard shall be no more than 3.5 inches above the top of the upper bunk bed frame.

^{Pf}

5. Bunk beds shall be located away from potential hazards, including heat sources, ceiling fans, or other ceiling protrusions. ^{Pf}

(4) EXITS FROM SLEEPING ROOMS. This section only applies to a tourist rooming house (a) *A basement or ground floor used for sleeping*. A basement or ground floor used for sleeping shall be provided with at least 2 separate exits in accordance with the following requirements: ^P

1. At least one of the exits shall be a door to the exterior of the dwelling or a stairway or ramp that leads to the floor above. ^{Pf}

2. The second exit shall be a door to the exterior of the dwelling, a stairway or ramp that leads to the floor above, a stairway that leads to a garage provided the garage has an exit door other than the overhead door, or an egress window located in each sleeping room that complies with par. (g). ^{Pf}

(b) *Exits from the first floor*. First floors shall be provided with at least 2 exit doors in accordance with the following requirements: ^P

1. At least one of the exits shall discharge to grade and may not go through a garage. This exit may include interior or exterior stairs. ^{Pf}

1012 2. The second exit may discharge into an attached garage provided the garage has an exit door other
1013 than the overhead door that discharges to grade. ^{Pf}

1014 3. Any exit that does not comply with sub. (b) 1. may discharge to an outside balcony that complies
1015 with par. (f). ^{Pf}

1016 4. One of the exit doors required in par. (b) may be omitted for a tourist rooming house that has one or
1017 more egress windows on the first floor. If there are first floor sleeping rooms, each must have a window
1018 that complies with par. (g). ^{Pf}

1019 (c) *Exits from the second floor.* 1. At least 2 exits shall be provided from the second floor. ^P

1020 a. At least one of the exits shall be a stairway or ramp and lead to the first floor or discharge to grade.
1021 ^{Pf}

1022 b. The second exit may be via a stairway or ramp that discharges to grade, or to a balcony which
1023 complies with par. (f), or to a deck that complies with sub. 2 (a) and (b) and that is no more than 15 feet
1024 above the grade below. ^{Pf}

1025 2. Windows that comply with par. (g) may be provided in each second floor sleeping room or in another
1026 location on the second floor if there are no sleeping rooms on that floor in lieu of the second exit. ^{Pf}

1027 (d) *Exits above the second floor.* At least 2 exits shall be provided for sleeping rooms above the second
1028 floor in accordance with all of the following: ^P

1029 1. The exits shall be stairways or ramps that lead to the second floor or discharge to grade. ^{Pf}

1030 2. The exits shall be located such that an exit is accessible to the second floor if another exit is blocked.
1031 ^{Pf}

1032 (e) *Exits from lofts.* 1. At least one stairway exit shall be provided, to the floor below, for a loft
1033 exceeding 400 square feet in area. ^P

1034 2. At least one stairway or ladder exit shall be provided to the floor below for a loft, 400 square feet or
1035 less, in area. ^P

1036 (f) *Balconies.* A balcony shall meet all of the following:

1037 1. Provided with guards in accordance with sub. (2) (b). ^{Pf}

1038 2. Located no more than 15 feet above grade. ^{Pf}

1039 (g) *Windows used for exiting.* A window used for exiting shall meet all of the following:

1040 1. The window shall be openable from the inside without the use of tools or the removal of a sash. If
1041 equipped with a storm window or screen, it shall be openable from the inside. ^{Pf}

1042 2. The size of the window opening shall be at least 20 inches by 24 inches irrespective of the height or
1043 width of the window itself. ^P

1044 3. No portion of the window, including stops, stools, meeting rails and operator arms, shall infringe on
1045 the required opening. ^{Pf}

1046 4. For any window used for exiting, the lowest point of opening shall be no more than 60 inches above
1047 the floor. ^{Pf}

1048 5. If the lowest point of opening is more than 46 inches above the floor, a permanent platform or fixture
1049 shall be installed such that a flat surface at least 20 inches wide and 9 inches deep is located no more than
1050 46 inches directly below the clear opening. ^{Pf}

1051 6. An egress window under a deck or porch shall discharge through a clear path of at least 36 inches in
1052 height and 36 inches in width, and no more than 15 feet in length, to a yard or open space. ^{Pf}

1053 (5) DOOR LOCKS. (a) *General.* Except as specified in (b) doors to all individually keyed units shall be
1054 provided with a key or other electronic locking mechanism from the outside and a non-key locking
1055 mechanism from the inside. ^P

1056 (b) *Sliding exterior door.* A sliding exterior door is not required to be provided with a key or other
1057 electronic locking mechanism from the outside but shall be provided with a non-key locking mechanism
1058 from the inside.

1059 (6) BUILDING EVACUATION DIAGRAM. (a) *Hotel, motel and condominium.* Except for an individually
1060 keyed unit that exits immediately to grade, an individually keyed unit in a hotel, motel, or condominium
1061 shall be provided with a building evacuation diagram and meet all of the following:

1062 1. Be conspicuously posted. ^{Pf}

1063 2. Indicate the viewer's location. ^{Pf}

1064 3. Indicate a minimum of 2 evacuation routes to emergency exit doors. ^{Pf}

1065 (b) *Tourist rooming house*. A tourist rooming house shall be provided with a building evacuation
1066 diagram and meet all of the following:

1067 1. Be conspicuously posted in each sleeping room or provided in the check-in materials given to the
1068 guest. ^{Pf}

1069 2. Indicate a minimum of 2 evacuation routes that lead to the exterior pursuant to sub. (4). ^{Pf}

1070 (7) EMERGENCY EGRESS.

1071 (a) *Emergency lights*. If provided, all emergency lights located in designated stairwells, aisles,
1072 corridors, and passageways leading to an exit shall be operational and maintained in good repair. ^{Pf}

1073 (b) *Exit signs*. If provided, all exit signs shall be:

1074 1. Illuminated and visible from any direction of exit access. ^{Pf}

1075 2. Maintained in good repair. ^{Pf}

1076 3. Provided with a directional indicator showing the direction of travel when the nearest exit is not
1077 apparent. ^{Pf}

1078 4. Displayed to read "EXIT." ^{Pf}

1079 (c) *Emergency exit doors*. Emergency exit doors shall:

1080 1. Not be blocked to prevent use. ^P

1081 2. Be provided with a knob, panic bar, or other simple type of releasing device having a method of
1082 operation that is obvious under all lighting conditions. ^{Pf}

1083 3. Open in the direction of egress. ^{Pf}

1084 (8) EMERGENCY ASSISTANCE. Pursuant to s. 97.623 (2), Stats., a hotel shall offer to every guest, at the
1085 time of registration an opportunity to identify oneself as a person needing assistance in an emergency and
1086 shall keep a record at the registration desk of where each person so identified is lodged. ^{Pf}

1087 (9) FIRE PREVENTION. (a) *Fire alarm and detection systems*. If provided, the operator shall maintain the
1088 fire alarm system and shall meet all of the following:

1089 1. The fire alarm system shall be operational at all times that the building is occupied. ^P

2. The operator shall immediately notify the fire alarm system service company or other qualified personnel per national fire protection association 72 National Fire Alarm and Signaling Code, in response to any illuminated indicator for alarm, trouble or supervisory signals on the fire alarm control panel. ^{Pf}

3. The operator shall maintain documentation that verifies the fire alarm system, to include any smoke detectors and carbon monoxide detectors, has been inspected and tested annually by a fire alarm system service company or other qualified personnel per national fire protection association 72 National Fire Alarm and Signaling Code. ^{Pf}

4. Documentation required in subd. 3. shall be provided to the department or its agent upon request. ^{Pf}

Note: Documentation can include the fire alarm and emergency communication system inspection and testing form provided by the fire alarm system service company, other qualified personnel per national fire protection association 72 National Fire Alarm and Signaling Code, or the fire inspection report provided by the local fire department.

(b) Fire Extinguishers.

1. In a tourist rooming house that is a one- or 2-family dwelling, cabin, cottage or specialty lodging unit, fire extinguishers, if provided, must be located in a readily accessible conspicuous area, and the extinguisher must be maintained according to the manufacturer's instructions.

Note: A fire extinguisher may need to comply with local fire code occupancy requirements; the local fire prevention authorities may require annual maintenance examinations. Contact the local fire department or fire marshal's office for requirements.

2. In a motel, hotel or condominium fire extinguishers shall be:

a. Labeled to identify the class type of extinguisher. ^{Pf}

b. Provided with label instructions on the use of the extinguisher. ^{Pf}

c. Provided with a tag to identify last date of service. ^{Pf}

d. Serviced or tested every 12 months. ^{Pf}

e. Provided with a pressure gauge, except for carbon dioxide fire extinguishers. ^{Pf}

f. Maintained in working order and proper pressure. ^{Pf}

1116 (c) *Fire rated doors*. If provided, fire rated doors shall be:

1117 1. Labeled with a visible fire rating.

1118 2. Self-closing.

1119 3. Closed unless interconnected with fire alarm system. ^{Pf}

1120 **(10) VENTILATION.**

1121 (a) *Discharge of combustion pollutants*. 1. Fuel-burning appliances shall vent outdoors in accordance
1122 with the manufacturer's installation specifications. ^P

1123 2. The piping used for ventilation shall be maintained in good repair. ^P

1124 (b) *Unvented fuel-burning appliances*. 1. Except as provided under subd. 2., the use of unvented fuel-
1125 burning appliances, furnaces, and space heaters shall be prohibited. ^P

1126 2. A fuel-burning range or oven is not required to vent to the outdoors unless specified by the
1127 manufacturer's installation specifications.

1128 **(11) SMOKE ALARMS.** (a) *Smoke alarms required*. The operator shall provide smoke alarms within each
1129 individually keyed unit at the locations specified in par. (b). ^P

1130 (b) *Locations*. A functional smoke alarm shall be located:

1131 1. On each floor level to include a basement or ground floor and at the top of any stairway but excluding
1132 crawl spaces and unfinished attics. ^{Pf}

1133 2. Outside of each separate sleeping area, within 21 feet of any door to a sleeping room, with the
1134 distance measured along a path of travel. ^{Pf}

1135 3. Within each sleeping room. ^{Pf}

1136 (c) *Certification*. Smoke alarms shall conform to Underwriters Laboratories, Inc. standard 217 smoke
1137 alarms and bear the UL listing mark or a similar mark from an independent product safety certification
1138 organization.

1139 **Note:** The UL listing mark typically consists of 4 elements: UL in a circle symbol, the word "Listed",
1140 product name, and control number. ^P

1141 (d) *Manufacturer directions and specifications.* The operator shall install every smoke alarm required
1142 by this subsection according to the directions and specifications of the manufacturer of the smoke alarm. ^{Pf}

1143 (e) *Maintenance requirements.* A smoke alarm shall be maintained in working order and replaced in
1144 accordance with the manufacturer's date of expiration. When notified by the department or its agent of a
1145 non-functional or expired smoke alarm, the operator shall notify the department or its agent within 5
1146 calendar days that a smoke alarm has been repaired or replaced. ^P

1147 (12) CARBON MONOXIDE ALARMS. (a) *Carbon monoxide alarms required.* Except as provided in par.
1148 (i), the operator shall provide carbon monoxide alarms as required under pars. (b) to (d). ^P

1149 (b) *Fuel-burning appliances within an individually keyed unit.* A carbon monoxide alarm shall be
1150 provided in the locations as specified under par. (e), in each individually keyed unit that contains a fuel-
1151 burning appliance. ^P

1152 (c) *Fuel-burning appliances outside of an individually keyed unit.* A carbon monoxide alarm shall be
1153 provided in the locations as specified under par. (e), in a lodging facility that contains a fuel-burning
1154 appliance, except as follows:

1155 1. A carbon monoxide alarm is not required in each individually keyed unit where there is not a
1156 communicating opening between the fuel-burning appliance and the individually keyed unit. ^P

1157 2. A carbon monoxide alarm is not required in each individually keyed unit where a carbon monoxide
1158 alarm is provided in one of the following locations:

1159 a. Between the fuel-burning appliance and the individually keyed unit. ^P

1160 b. On the ceiling of the room containing the fuel-burning appliance. ^P

1161 (d) *Private garages.* A carbon monoxide alarm shall be provided in the locations as specified under
1162 par. (e), for each individually keyed unit with an attached private garage, except as follows:

1163 1. A carbon monoxide alarm is not required in each individually keyed unit where there is not a
1164 communicating opening between the private garage and the individually keyed unit. ^P

1165 2. A carbon monoxide alarm is not required in each individually keyed unit located more than one story
1166 above or below the private garage. ^P

1167 3. A carbon monoxide alarm is not required where the private garage connects to the building through
1168 an open-ended corridor. ^P

1169 4. A carbon monoxide alarm is not required in each individually keyed unit when a carbon monoxide
1170 alarm is provided between the opening to the private garage and an individually keyed unit. ^P

1171 5. A carbon monoxide alarm is not required where the private garage has an opening designed to
1172 provide natural ventilation or is mechanically ventilated. ^P

1173 (e) *Locations*. If required under pars. (b) to (d), a carbon monoxide alarm shall be installed in the
1174 following locations:

1175 1. In an individually keyed unit, outside of each separate sleeping area within 21 feet of any door to a
1176 sleeping room, with the distance measured along a path of travel. ^{Pf}

1177 2. In a sleeping room, if a fuel-burning appliance is located within the sleeping room or its attached
1178 bathroom. ^{Pf}

1179 (f) *Certification*. A carbon monoxide alarm shall conform to Underwriters Laboratories, Inc. standard
1180 2034 single and multiple station carbon monoxide alarms and bear the UL listing mark or a similar mark
1181 from an independent product safety certification organization.

1182 **Note:** The UL listing mark typically consists of 4 elements: UL in a circle symbol, the word “Listed”,
1183 product name, and control number.

1184 (g) *Manufacturer directions and specifications*. The operator shall install every carbon monoxide alarm
1185 required by this subsection according to the directions and specifications of the manufacturer of the carbon
1186 monoxide alarm. ^{Pf}

1187 (h) *Maintenance requirements*. A carbon monoxide alarm shall be maintained in working order and
1188 replaced in accordance with the manufacturer’s date of expiration. When notified by the department or its
1189 agent of a non-functional or expired carbon monoxide alarm, the operator shall notify the department or its
1190 agent within 5 calendar days that a carbon monoxide alarm has been repaired or replaced. ^P

(i) *Exception.* Subsections (a) to (h) do not apply to the operator if all of the fuel-burning appliances in the lodging facility are a sealed combustion appliance that is covered by the manufacturer's warranty against defects.

ATCP 72.19 Building and premises maintenance. (1) MAINTAINED CLEAN AND IN GOOD REPAIR.

(a) *Sleeping rooms.* The floors, walls, and ceiling in a sleeping room shall meet all of the following:

1. Be maintained in a clean condition.

2. Be maintained in good repair.

(b) *Common areas.* 1. The floors, walls, and ceilings in areas other than sleeping rooms shall meet all of the following:

1. Be maintained in a clean condition.

2. Be maintained in good repair.

(c) *Exterior premises.* 1. The roof, exterior walls, doors and windows shall be maintained in good repair.

2. Parking areas and roadways shall be properly graded, drained, and maintained.

(2) PEST CONTROL. A lodging facility shall be maintained to prevent the entrance, harborage, or infestation of pests, vermin, or wildlife and be subject to all of the following:

(a) *Effective measures.* 1. Effective measures to minimize the presence of pests shall be utilized. The department or its agent may order the operator to hire a licensed pest control operator to exterminate the pests under the following conditions:

a. The infestation is so extensive that it is unlikely that a nonprofessional can eradicate the pests effectively. ^P

b. Upon a reinspection from the department or its agent pursuant to s. ATCP 72.09 (1) (b), the establishment continues to be in noncompliance with a prior order to rid the establishment of pests. ^P

2. In the event the operator is unable to secure a licensed pest control operator, the temporary order issued pursuant to ATCP 72.26 (2) may be extended pursuant to ATCP 72.09 (3) (b).

3. a. Openings to the outside shall be protected from the entrance of pests. ^{Pf}

b. All windows that can be opened in each individually keyed unit shall be screened, using 16 mesh or finer material.

4. Pest control measures shall be used in a safe manner and applied according to label instructions.^P

(b) *Restricted use pesticides*. A restricted use pesticide shall be applied only by an applicator certified and licensed in accordance with ss. 94.704 and 94.705, Stats., and ss. ATCP 29.25, 29.26 and 29.40.^{Pf}

Note: For bed bugs, when the presence of live or dead bed bugs, eggs, skin casts, or fecal spotting are identified in an individually keyed unit, it is recommended to perform an investigation in the rooms adjacent to the identified room and the rooms above and below the identified room.

(3) HAZARDOUS SUBSTANCES. (a) *Use*. Chemicals, flammable materials, and other hazardous substances that can harm human health or the environment shall be used for their intended purpose and according to the manufacturer's directions stated on the container label.^P

(b) *Storage*. Chemicals, flammable materials, and other hazardous substances that can harm human health or the environment shall meet all of the following:

1. Except as specified under subdpar. d., stored in their original, covered and labeled containers following safety data sheet storage instructions.^P

2. Stored in a separate, secure area accessible only to staff, except for chemicals used for utensil sanitization under s. ATCP 72.20 (6).^P

3. Stored in a secure location in an area that cannot contaminate food, utensils, linens, and single-service or single-use articles.

4. Working containers used for storing chemicals and other hazardous substances that can harm human health or the environment taken from bulk supplies shall be clearly and individually identified with the common name of the material.^{Pf}

(c) *Disposal*. Hazardous substances that can harm human health or the environment shall be disposed of in a manner and location as directed on the manufacturer's label, the safety data sheet or the local agency having jurisdiction over handling hazardous substances and the applicable sections of chs. NR 600 to 699, as enforced by the Wisconsin department of natural resources.^{Pf}

1243 **ATCP 72.20 Furnishings, equipment and utensils. (1) DESIGN.** All equipment and furnishings shall
1244 be designed, constructed, and made of a material that is easily cleanable.

1245 **(2) INSTALLATION.** All furnishings and equipment shall be installed in a way that facilitates the cleaning
1246 of the furnishings and equipment and all adjacent areas.

1247 **(3) MAINTENANCE.** All furnishings, equipment, and utensils shall be maintained in good repair.

1248 **(4) CLEAN CONDITION. (a) General.** All furnishings and equipment and shall be kept clean.

1249 **(b) Jetted, fill and drain bathtubs.** If a lodging facility is equipped with a jetted, fill and drain bathtub,
1250 then the operator shall follow the manufacturer's cleaning and sanitization procedures and demonstrate
1251 knowledge regarding those procedures. Cleaning and sanitization of jetted, fill and drain bathtubs shall
1252 occur between each guest stay.^{Pf}

1253 **(5) FOOD-CONTACT UTENSIL SURFACES.** Food-contact utensil surfaces shall be:

1254 (a) Free of cracks or chips.

1255 (b) Smooth and easily cleanable.

1256 (c) Nontoxic.^P

1257 (d) Corrosion-resistant.

1258 (e) Durable.

1259 (f) Nonabsorbent.

1260 **(6) UTENSIL WASHING AND SANITIZATION. (a) Methods.** Except as provided under par. (e), all utensils
1261 shall be washed, rinsed, and sanitized on the premises before being provided to a different guest.^P

1262 **(b) Equipment.** Utensil washing and sanitization shall occur using any of the following:

1263 1. A 2 or 3 compartment sink.

1264 2. An NSF/ANSI 184 certified residential dishwasher.

1265 3. A non-certified residential dishwasher with a separate sanitization step performed in accordance with
1266 par. (c) 3.

1267 4. An NSF/ANSI 3 certified commercial dishwasher.

1268 **(c) Procedure.** Utensils shall be:

1269 1. Washed using a dish detergent. ^{Pf}

1270 2. Rinsed after washing and before sanitization. ^{Pf}

1271 3. Sanitized using any one of the following methods:

1272 a. Manual chemical sanitization using chlorine (bleach), iodine, quaternary ammonia or another United

1273 States environmental protection agency approved sanitizer for food contact surfaces. ^P

1274 b. Mechanical hot water or chemical sanitization following the manufacturer's directions for use. ^P

1275 c. Any other method approved by the department. ^P

1276 4. Air-dried before storage.

1277 (d) *Operator-provided sanitization.* 1. Except as provided in par. (e) and (f), an individually keyed

1278 unit shall be provided with clean and sanitized multiuse food and beverage utensils, including

1279 kitchenware, tableware, drinking containers, and either an ice tray, ice bucket, or automatic ice making

1280 storage bin. ^P

1281 2. The person in charge shall be able to demonstrate full knowledge of their utensil washing, rinsing

1282 and sanitizing procedures. ^{Pf}

1283 3. Testing devices for a chemical used under par. (c) 3. a. shall be used to monitor sanitizer

1284 concentration. ^{Pf}

1285 4. Testing methods for mechanical hot water dishwashers for monitoring sanitization effectiveness are

1286 as follows:

1287 a. NSF/ANSI 184 certified residential dishwasher shall follow the manufacturer's directions for

1288 use for utensil sanitization. ^{Pf}

1289 b. NSF/ANSI 3 commercial dishwashers shall use a thermal label or other approved temperature

1290 measuring device. ^{Pf}

1291 (e) *Guest-provided sanitization.* If an individually keyed unit is not supplied with sanitized

1292 multiuse food and beverage utensils, the operator shall perform all of the following: ^{Pf}

1293 1. Any visibly soiled utensil shall be washed and rinsed pursuant to subd. (c) 1. and 2.

1294 2. a. The operator shall provide a sign with the following message: "Food and beverage utensils

have been provided in this lodging facility as a guest convenience. They have not been sanitized. It is recommended that you wash with a detergent, rinse with clean water and sanitize utensils before their use. ^{Pf}

b. The signage shall also include the directions on proper utensil sanitization using an approved sanitizer pursuant to par. (c) 3. ^{Pf}

Note: For example, to sanitize using bleach, “after rinsing, add 1 teaspoon of unscented bleach per gallon of clean water and immerse utensils for a minimum of 30 seconds, then air dry”.

3. The sign shall be legible and posted in a conspicuous location or provided with the check-in materials.

4. The operator shall provide the means for sanitizing utensils on the premises. Chemical sanitizers shall be stored along with other cleaning products in the original, labeled container and out of reach of young children. Chemical sanitizers may be stored at the office or other central location but must be made available to the guest upon request. ^{Pf}

(f) If an ice bucket is provided with a single-use disposable liner, the ice bucket may be cleaned with a spray sanitizer.

(g) The reuse of unwrapped or unprotected single-service utensils is prohibited. ^P

(7) STORAGE. All clean food and beverage utensils shall be stored and handled in a manner that protects them from contamination.

(8) CLEANLINESS OF LINENS. (a) *Cleaned between guests.* If provided, pillowslips, sheets, duvet covers, towels, washcloths, bathrobes or slippers shall be laundered as frequently as they are assigned to a different guest and at least once every seven days for extended guest stays.

(b) *General.* Blankets, bedspreads, comforters, mattresses, mattress coverings, pillows and decorative pillows shall be maintained clean.

(c) *Restrictions.* All bed coverings shall be washable.

(d) *Mattress coverings.* Mattresses shall be provided with a nonabsorbent mattress protector that covers the entire sleeping surface or have an easily cleanable nonabsorbent mattress surface.

(e) *Separation of clean and soiled linen.* Laundry carts, bins, or baskets shall be designated for either soiled or clean linen and shall only be used for that purpose.

(f) *Storage of clean linen.* Clean linen shall be stored in a clean, dry location, and not exposed to contamination.

ATCP 72.21 Food. (1) LICENSE. (a) *Retail food establishment activities.* Except as provided under par. (b), any operator who conducts food preparation activities or conducts retail food sales of TCS foods shall meet the requirements under ch. ATCP 75 and obtain a retail food establishment license.

(b) *Allowable food items offered to guests.* The operator may provide any of the following without obtaining a retail food establishment license: ^P

1. Non-TCS prepackaged food items including cookies, crackers, popcorn, pretzels, coffee and other food items that do not require hot or cold holding for food safety.

2. Dry bulk spices such as salt and pepper.

3. Grocery shopping as requested by the guest. The operator shall meet all of the following:

a. All TCS food items shall be delivered and placed under refrigeration in the individually keyed unit or stored in a commercial refrigeration unit at the lodging facility within 2-hours after purchase. ^P

b. Before food is placed in a guest refrigerator, the temperature of the refrigerator shall be 41° F or below and verified by using an approved temperature measuring device. ^P

Note: Contact the municipal clerk in regard to providing alcoholic beverages.

(2) ICE. (a) *Source.* All ice used in a lodging facility for cooling drinks or food by direct contact shall be made from a potable water supply pursuant to s. ATCP 72.16 (2). ^P

(b) *Self-service commercial ice makers.* All self-service commercial ice makers shall be of the mechanical dispensing type unless ice is dispensed by an employee.

(c) *Utensils used for ice.* Ice tongs or ice scoops used by employees shall be properly stored on a clean surface protected against contamination. If stored directly in ice, ice scoops and tongs shall be stored with their handles above the top of the ice.

(3) REMOVAL OF FOOD AND ICE. TCS foods and opened non-TCS food items including ice, shall be

removed from the individually keyed unit after guest check out and before assigned to another guest. ^{Pf}

ATCP 72.22 Employee health. (1) PERSON IN CHARGE DUTIES. The person in charge shall inform employees of their duty to report symptoms of vomiting, diarrhea, or diagnosis of a food or waterborne communicable disease to the person in charge. ^{Pf}

(2) EMPLOYEES. Employees shall report to the person in charge if they have symptoms of vomiting or diarrhea or have been diagnosed with a food or waterborne communicable disease. ^P

(3) EXCLUSION OR RESTRICTION. The person in charge shall exclude or restrict an employee from working in a lodging facility who has symptoms of vomiting or diarrhea or has been diagnosed with a food or waterborne communicable disease. ^P

Note: For guidance on exclusion or restriction of employees with a food or waterborne communicable disease, please contact the local health department.

(4) CLEAN-UP OF VOMITING AND DIARRHEAL EVENTS. The operator shall have written procedures for responding to vomiting or diarrheal events. The procedures shall include clean-up methods and actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter. ^{Pf}

ATCP 72.23 Garbage and refuse. (1) GENERAL. The operator shall provide a sufficient number of containers to hold garbage and refuse until disposal.

(2) CONTAINER. (a) Design. Garbage and refuse shall be kept in a durable, easily cleanable, pest resistant, leak-proof and nonabsorbent container.

(b) Covered and emptied. 1. A container shall be provided with a tight-fitting lid, door, or cover that is kept closed when not in use.

2. A container for holding garbage and refuse shall be emptied at a frequency that minimizes the development of objectionable odors and other conditions that attract or harbor pests.

ATCP 72.24 Registration of guests. (1) REGISTER. The operator shall provide a written or electronic register and include all of the following:

(a) The full name of the registered guest.

1372 (b) The registered guest's contact information including phone number, mailing address or email.

1373 (c) Arrival and departure dates.

1374 (d) Number of guests in the party.

1375 (2) RECORD RETENTION. The register shall be kept intact and available for inspection by representatives
1376 of the department or its agent for at least 3 years.

1377 **ATCP 72.25 Death, injury, or illness reports.** The licensee or their designee shall complete a report
1378 on a form provided by the department after an incident that results in death, injury, or food, waterborne or
1379 other communicable illness where an emergency medical service response is initiated by the operator. The
1380 report shall be filed with the department or its agent within 2 business days or as soon as practicable
1381 following the incident.

1382 **Note:** Report deaths, injuries, or illnesses to the bureau of food and recreational businesses by calling (608)
1383 224-4682 or emailing atcpdfsrec@wisconsin.gov; or if licensed by an agent, by contacting the agent
1384 health department.

1385 **ATCP 72.26 Closing Criteria.**

1386 (1) REASONS FOR CLOSURE. The operator shall close the applicable individually keyed unit, lodging
1387 facility, or affected areas of a lodging facility where an imminent health hazard is present, including:

1388 (a) *Potable water.* Unsafe water supply as pursuant to s. ATCP 72.16 (2) (h) 1. ^P

1389 (b) *Waterborne disease outbreak.* Confirmed waterborne disease outbreak pursuant to s. ATCP 72.16

1390 (3) (c). ^P

1391 (c) *Sewage disposal system.* Pursuant to s. ATCP 72.17 (4), a lodging facility with a sewage disposal
1392 system that is determined to be unusable by the Wisconsin department of safety and professional services,
1393 their agent, or local zoning authority. ^P

1394 (d) *Fire alarm system.* A nonoperational fire alarm system pursuant to s. ATCP 72.18 (9) (a) 1., as
1395 determined by the fire department, building inspection personnel, State fire marshal, or the Wisconsin
1396 department of safety and professional services. ^P

1397 (e) *Smoke alarm.* Absence of a required smoke alarm in designated areas pursuant to s. ATCP 72.18

(11) (a).^P

(f) *Carbon monoxide alarm*. Absence of a required carbon monoxide alarm in designated areas pursuant to ATCP 72.18 (12) (a).^P

(g) *Lack of pest control*. Shall include any of the following:

1. Evidence of an infestation with an observation of numerous live pests.^P

2. Evidence of a bed bug infestation, to include live or dead bed bugs, eggs, skin casts, or fecal spotting.

^P

(h) *Other hazards*. The existence of any condition creating any immediate danger to health or safety.^P

(2) ACTIONS BY THE DEPARTMENT OR ITS AGENT. If the conditions in sub. (1) are present the department or its agent shall issue a temporary order pursuant to s. ATCP 72.09 (3).

SUBCHAPTER VI

SPECIALTY LODGING

ATCP 72.27. Exemptions. In addition to the requirements under this subchapter, all the requirements under ch. ATCP 72 apply to specialty lodging except as follows:

(1) **WATER SYSTEMS.** A specialty lodging facility with an outside water supply system approved pursuant to s. ACTP 72.16 (1) with no plumbing fixtures provided within the structure is exempt from s. ATCP 72.16 (2) (c).

(2) **SEWAGE DISPOSAL SYSTEM.** (a) *Liquid or water carried waste*. A specialty lodging facility with no liquid or water-carried waste plumbing fixtures is exempt from s. ATCP 72.17 (1) and (2).

(b) *Approved*. A specialty lodging facility with an outside toilet shall be approved pursuant to s. ATCP 72.17 (5) (c).

(c) *Outside toilet exemptions*. Outside toilet facilities are exempt from s. ATCP 72.17 (5) (a) (b), (d), and (e).

ATCP 72.28 Prohibitions. (1) **FOOD EQUIPMENT AND SINKS.** A specialty lodging facility shall not be provided with food contact utensils, sinks for handwashing, utensil washing, and sanitization, or cooking equipment, except for a microwave oven.^P

(2) SIZE. A specialty lodging facility shall not exceed 1,500 square feet by measuring the exterior footprint formed by the exterior walls. The exterior footprint does not include porches or decks not used for overnight sleeping accommodations.

ATCP 72.29. General provisions. A specialty lodging facility shall meet all of the following requirements:

(1) WATER SUPPLY. An outdoor potable water supply shall be available within 400 walking distance feet. ^{Pf}

(2) TOILET FACILITIES. If the toilet facility is located outside of the specialty lodging unit, the toilet shall be available within 400 walking distance feet. ^{Pf}

(3) COMMUNICATION TO GUESTS. Guests shall be clearly informed during the reservation process what amenities are provided in the lodging facility including:

(a) Type and location of water supply.

(b) Type and location of toilet facility.

(c) No provision for cooking utensils or equipment, except for microwave oven.

(d) No sinks are provided.

(e) Electricity.

(f) Heating or air conditioning.

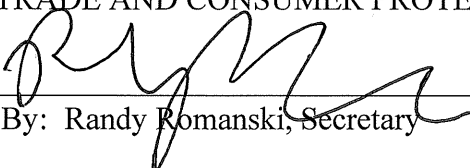
(g) Bedding and linens.

SECTION 2. EFFECTIVE DATE. This rule shall take effect 90 days following publication in the Wisconsin administrative register, as provided pursuant to s. 227.22 (2) (intro), Stats.

(END OF RULE TEXT)

Dated this 2 day of May 2025

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION


By: Randy Romanski, Secretary

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1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date October 3, 2024								
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Wis. Admin. Code. ch. ATPC 72, Hotel, Motel, and Tourist Rooming Houses									
4. Subject Hotel, Motel, and Tourist Rooming Houses									
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected Wis. Stat. § 20.115(1)(gb) Food, lodging, and recreation								
7. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input checked="" type="checkbox"/> Increase Existing Revenues</td><td><input type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<input type="checkbox"/> No Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget	
<input type="checkbox"/> No Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs						
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget							
8. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>		<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	<input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors								
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers								
<input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)									
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$196 - \$ 20,000									
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
11. Policy Problem Addressed by the Rule <p>The Department and its agent health departments license approximately 12,500 hotels, motels, and tourist rooming houses throughout the state. According to the 2023 Wisconsin Department of Tourism Economics Report, the lodging industry generated an estimated \$3.4 billion in direct business sales and \$1.2 billion in labor income. The lodging options available to tourists has drastically expanded beyond the typical hotel or motel room and occasional lakeside cabin that was available 40 years ago. The advent of online home rental services has added to the lodging market with new and unique overnight accommodations options for visitors inspired to experience Wisconsin.</p> <p>The Department is proposing to modernize the antiquated Wis. Admin. Code ch. ATPC 72 with a repeal and recreation that will significantly overhaul the definitions section, modernize smoke alarm, and carbon monoxide alarm placement, address slip, trip, and fall hazards, update the licensing and fee structure, and enhance existing provisions to ensure a safe lodging experience and environment. Modernization also reflects gender inclusion considerations with the proposed revised language using the term "per person" in place of "male" or "female."</p> <p>The proposed updates to Wis. Admin. Code ch. ATPC 72 contain an overhaul of definitions that includes amendments, modernization and expansion of terms used in the rule for clarification. Expansion of the definitions section includes over 80 newly defined terms. This expansion is beneficial because it creates clarity, efficiency, and an opportunity for both small business and authorized representatives conducting inspections to speak the same language used within the rule.</p> <p>The proposed fees and licensing structure for lodging establishments will address several critical issues. As the lodging industry evolves with new business models and technologies, the existing framework has become increasingly misaligned with current practices and economic realities. The current fees do not accurately reflect the costs of regulatory oversight needed to inspect the growing industry which can create inefficiencies and delays, impacting both regulators and businesses. The licensing structure will include three license types: tourist rooming house, hotel or motel,</p>									

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and specialty lodging. Each lodging type will then have multiple fee options based on the number of individually keyed units being offered for overnight sleeping accommodations. A single tourist rooming house, or vacation rental, will take more time to inspect than a single hotel room which is reflected in the associated fee. In addition, the draft rule addresses facilities that expand after receiving their initial lodging license. The rule will allow for these expanded areas to be inspected for compliance and allow for the costs to complete the work to be recouped. Lastly, the rule has introduced the specialty lodging option to adapt to more primitive lodging experiences offered in other parts of the country. Updating these elements is essential to ensure a fair and effective regulatory environment, promote industry growth, and improve the overall quality of lodging services.

The proposed rule will add an annual sampling frequency for bacteriological testing of private wells which is consistent with public water systems found at other lodging facilities. The annual testing of private wells for bacteria, such as total coliform and *Escherichia coli*, is also consistent with other recreational programs regulated by the Department. In addition to bacteria, the proposed rule is also intending to include an annual sampling frequency for nitrate testing of private wells which is also consistent with public water systems at other lodging facilities. According to the Wisconsin department of health services, nitrate is one of the most common groundwater contaminants in Wisconsin and studies estimate that at least 10% of private wells in Wisconsin have high levels of nitrate. The Wisconsin department of health services also indicates high nitrates in drinking water can affect infants, pregnant individuals, and may increase the risk of thyroid disease and may increase the risk of colon cancer in all individuals.

The proposed regulation includes the current installation and maintenance requirements for carbon monoxide alarms as reflected in s. 101.149, Stats., and most recently updated in 2017 Wisconsin Act 330. The updated statute language replaced the prior requirements for carbon monoxide alarms in residential buildings with standards which are similar to those in International Building Codes. The installation focus changed to put an emphasis on sleeping areas.

The proposed rule includes installation and maintenance requirements for smoke alarms consistent with s. 101.145, Stats. The areas of installation will include every floor, at the top of any stairway, outside of each sleeping area and within each sleeping room.

The Department and its agent health departments have routinely observed potential slip, trip, and fall hazards at lodging facilities during pre-licensing inspections. Most often these hazards are observed at tourist rooming houses and the structures oftentimes predate any building code requirements. The proposed language will address very basic, but essential, safeguards to address the commonly observed slip, trip, and fall hazards. Items such as handrails for staircases, guards on elevated decks, balconies, lofts or other elevated surfaces, and the addition of slip-resistant materials or bathmats in bathtubs or showers that have smooth basins would be addressed in the proposed language.

The rule has proposed language to address waterborne outbreaks and additional requirements for those outbreaks involving the bacteria *Legionella* spp. The Department has been involved in 14 suspected outbreaks over the course of eight years at lodging facilities involving *Legionella* bacteria which has resulted in 33 illnesses and one death. According to the United States centers for disease control and prevention, *Legionella* bacteria cause Legionnaires' disease and Pontiac fever which are spread to people through building water systems. Legionnaires' disease is a severe type of pneumonia that can lead to lung failure and even death. If a lodging facility has a confirmed *Legionella* outbreak, then the operator will be required to develop a *Legionella* water management program to control and prevent future outbreaks. The United States centers for disease control and prevention has free online resources and a toolkit to assist operators in the development of a *Legionella* water management program.

The proposed rule text has incorporated similar language that is currently used in the Minnesota Lodging Code which may require a lodging operator to hire or consult with a licensed pest control operator in cases of an extensive

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infestation. The proposed rule still preserves current methods of allowing an operator to self-treat using non-restricted use pesticides for more manageable infestations.

The proposed language includes a new requirement for reporting death, injury, or food, waterborne or other communicable illnesses that requires an emergency medical service (EMS) response relating to the operation or maintenance of the lodging facility. For example, an EMS response for a guest that tripped and fell down the stairs would be reported to the Department. However, an EMS response for a guest that suffers a heart attack would not be required to be reported. This data will assist in designing effective outreach and meaningful interventions and the data collected may help support future rule development. This data will be mutually beneficial to both small business and the Department as they make continuous improvements in keeping guests safe and healthy.

The proposed language incorporates criticality methodology initially developed by the United States food and drug administration for their model food code to create a risk-based inspection system. This risk-based methodology seeks to identify those provisions that are more critical for protecting public health and to designate a risk level of hazards. Each code provision will be assigned as a core item, priority foundation item or priority item. Core items are typically designated for cleanliness or maintenance procedures. Priority foundation items, if left uncorrected over time, or in conjunction with other priority foundation items, may lead to illness or injury. Lastly, priority items, if uncorrected or are missing at the time of inspection, could significantly contribute to an increased risk for injury or illness; a nonfunctional or absent smoke alarm as an example. The criticality method provides clarity to industry by identifying those provisions which are more likely to cause illness or injury and supports a risk-based inspection approach. The criticality method has been adopted and is used in Wis. Admin. Code ch. ATPC 75, Wisconsin food code, Wis. Admin. Code ch. ATPC 76, Wisconsin pool code, and Wis. Admin. Code ch. ATPC 78, Wisconsin recreational education camp code.

The above-mentioned rule adjustments are needed to address outdated regulatory practices, adapt to evolving industry standards, overall growth, and to ensure a continued fair and efficient oversight of the lodging industry. Current regulations do not fully reflect modern business models or accurately cover the costs for enforcement of the rule. The updated proposed rule will streamline processes, enhance compliance, and support industry growth by aligning regulations with current needs and practices.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

The ATPC 72 Rule Revision Advisory Committee was created to assist the Department in the repeal and recreation process of Wis. Admin. Code. ch. ATPC 72. The committee was tasked with vetting the objectives outlined in the SS 010-23 Scope Statement and for developing a revised rule from those discussions. The committee was comprised of a diverse group of individuals that represented various facets of the lodging industry. Membership included individuals from the Wisconsin Hotel and Lodging Association, Wisconsin Association of Campground Owners, Wisconsin Realtors Association, Wisconsin County Code Administrators, Wisconsin Association of Local Health Departments and Boards – Environmental Health, tourist rooming house owners and Department staff. Public meetings were held on the last Tuesday of the month from September 2023 until the rule language drafting process had completed in July 2024.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

NA

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

As of early 2024, there were approximately 388 private wells located at licensed lodging facilities in the state. The Wisconsin department of natural resources matched the physical addresses of licensed lodging establishments against the physical addresses of registered private wells. This is an underestimate of the total number of statewide private wells serving lodging facilities as Dane, Milwaukee, and Taylor counties were not included. Nonetheless, the financial burden of annual water testing of private wells is a fractional impact on the industry. The Wisconsin department of natural

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resources lists 143 laboratories certified for coliform bacteria testing and 123 laboratories certified for nitrate testing. The current water testing prices for bacteria and nitrate water tests are \$35 each at the Wisconsin state laboratory of hygiene. This would result in an annual financial burden of \$70 for this small subset of licensed lodging facilities.

The cost to remediate a lodging facility for a *Legionella* contamination can vary widely depending on several factors, including the size and location of the facility, the extent of the contamination, and the specific measures required for remediation. The costs can range from a few thousand dollars to tens of thousands of dollars or more and include an assessment, cleaning, disinfection, and any necessary modifications to the building or plumbing systems. The overall financial impact on the industry is minimal with less than two suspected outbreaks per year.

The cost to modify a stair handrail, or to protect an elevated surface, will vary based on factors such as the type or materials used, the quantity of materials needed for modification, and the location of the repair. Estimates can range from a few hundred dollars to thousands of dollars or more depending on materials and complexity.

The methods chose to address a slip hazard in a bathtub or shower will vary greatly in costs. A roll of slip resistant tape designed for indoor bathtub and shower use costs around \$12 for 15 feet compared to bathtub refinishing which has an estimated cost of around \$480.

The cost of a 10-year “worry-free” smoke alarm is approximately \$20 per alarm and can be installed by the lodging operator without any special equipment. A three-bedroom vacation home with two sleeping rooms on the first floor and one sleeping room in the basement may require six smoke alarms in the proposed language. The hypothetical vacation home would equate to \$120 to protect, or \$12 per year. Oftentimes, smoke alarms can be purchased in bundled quantities which will reduce the individual estimated cost per alarm.

The cost to rid a lodging facility of pests can vary widely depending on several factors, including the size and location of the facility, the extent of the infestation, and the specific treatment methods used. The costs can range from a few hundred dollars to thousands of dollars or more and include an assessment, treatment, and any necessary modifications to the building to prevent further infestations.

The Department presented three various fee models to the ATCP 72 Rule Revision Advisory Committee. All three models generated nearly the same targeted revenue. Model 1 had higher fees for preinspections compared to the other models. Model 2 had higher fees for annual licenses compared to the other models. Lastly, model 3 was a blend between the other models. The committee ultimately selected model 1 as the desired fee structure.

The proposed fee structure has been expanded to offer more license options which will assist in capturing the costs of the inspection services more accurately and will distribute fees more fairly. The licenses will increase from five license options to 22 license options across the tourist rooming house, hotel and motel, and specialty lodging licensing fee categories.

The Department believes the fee changes proposed will have minimal effect on small businesses. The current fees have not been modified in 14 years and the proposed fees were calculated to have a three percent increase per year for hotel and motel licenses and a six percent increase per year for tourist rooming house licenses during that timeframe. The higher fee increase for tourist rooming houses reflects the increased inspection complexity, and increased time demand for scheduling and traveling compared to a traditional hotel room.

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The financial impact of the modernized license and fee model is low and maintains the current association between an increased fee based on the number of individually keyed units offered, through a tiered model. A lodging facility would be placed into one of three license types: tourist rooming house, hotel and motel, or specialty lodging unit. Within each license type is a range of individually keyed units with an associated fee that increases as the number of units increases. The ranges of individually keyed units have also been increased to an upper limit of 1000 or more hotel rooms compared to the current maximum of 200 or more hotel rooms. In addition, first reinspection fees and second reinspection fees have been reduced to a flat rate fee for all 22 license options.

The following tiered lodging license fee model is proposed in the revision:

Tourist Rooming House (TRH)

1 TRH \$296.00
2 to 4 TRH's \$450.00
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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

For benefits of implementing the rule, see #16 below. The alternative to implementing the rule would be to continue as is, attempting to continue to apply the existing rule to new methods, innovations, and trends not currently addressed or

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permitted under the existing rule. Industry groups and associations would find this alternative undesirable as they are eager for the rule be updated to reflect current industry best practices and trends. Furthermore, the Department would need to devote additional time and resources towards resolving the confusion that impedes implementation of the existing code (consultation, staff training and special workshops for industry).

16. Long Range Implications of Implementing the Rule

The Department expects the proposed rule to have a positive long range impact on all stakeholders. The proposed rule will provide more flexibility to businesses complying with rule requirements that are consistent with recognized industry best practices. The proposed rule will allocate regulatory requirements in proportion to risk, and will support risk-based inspection methods. The proposed rule modifies the criteria for assigning license fees and uses a clearer and simpler licensing model.

The proposed rule is written to be more accommodating of new technologies, trends and methods.

The proposed rule supports expeditious investigation and resolution of any waterborne outbreaks. The revised rule clearly states requirements for operators in the event of a suspected or confirmed outbreak so that it supports efficient and effective investigation of potential waterborne illnesses.

17. Compare With Approaches Being Used by Federal Government

There are no existing or proposed federal regulations that address the activities to be regulated by this proposed rule as a whole. However, federal rules and guidance documents are cited as these documents provide industry-accepted standards for certain aspects of lodging.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois

The State of Illinois does not have a standardized state sanitation code for regulating lodging facilities. Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

Indiana

The State of Indiana does not have a standardized state sanitation code for regulating lodging facilities. Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

Iowa

The State of Iowa standardized state sanitation code for regulating lodging facilities is Iowa Code Title IV, Public Health, Chapter 137C - Hotel Sanitation Code.

The Iowa Hotel Sanitation Code Subchapter III Health and Safety requirements only address four sections: plumbing, toilet and lavatory facilities, fire safety and the prohibition of employment of persons with communicable diseases.

Michigan

The State of Michigan does not have a standardized state sanitation code for regulating lodging facilities. Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

Minnesota

The State of Minnesota standardized state sanitation code for regulating lodging facilities is Minnesota Rules ch. 4625, Lodging Establishments, promulgated pursuant to Minnesota Statutes, ch. 157.

Of the five neighboring states, the Minnesota lodging sanitation rule most closely resembles the Wis. Admin. Code ch. ATPC 72. The Minnesota Department of Health has recently begun the process to revise the Minnesota Lodging Code. Chapter 4625 applies to all establishments that provide overnight sleeping accommodations, such as hotels, motels, lodging establishments and resorts as defined in Minnesota Statutes.

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The proposed Minnesota Lodging Code similarly addresses maintenance and cleanliness of equipment, furnishings, buildings and premises, fall hazard prevention with handrails and guardrails, safe water supplies, sanitization of reusable dishware and utensils, waste disposal, pest control, and fire protection and safety.

19. Contact Name

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20. Contact Phone Number

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This document can be made available in alternate formats to individuals with disabilities upon request.

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The Department and its agent health departments license approximately 12,500 hotels, motels, and tourist rooming houses throughout the state. According to the 2023 Wisconsin Department of Tourism Economics Report, the lodging industry generated an estimated \$3.4 billion in direct business sales and \$1.2 billion in labor income. The lodging options available to tourists has drastically expanded beyond the typical hotel or motel room and occasional lakeside cabin that was available 40 years ago. The advent of online home rental services has added to the lodging market with new and unique overnight accommodations options for visitors inspired to experience Wisconsin.

As of early 2024, there were approximately 388 private wells located at licensed lodging facilities in the state. The Wisconsin department of natural resources matched the physical addresses of licensed lodging establishments against the physical addresses of registered private wells. This is an underestimate of the total number of statewide private wells serving lodging facilities as Dane, Milwaukee, and Taylor counties were not included. Nonetheless, the financial burden of annual water testing of private wells is a fractional impact on the industry. The Wisconsin department of natural resources lists 143 laboratories certified for coliform bacteria testing and 123 laboratories certified for nitrate testing. The current water testing prices for bacteria and nitrate water tests are \$35 each at the Wisconsin state laboratory of hygiene. This would result in an annual financial burden of \$70 for this small subset of licensed lodging facilities.

The cost to remediate a lodging facility for a Legionella contamination can vary widely depending on several factors, including the size and location of the facility, the extent of the contamination, and the specific measures required for remediation. The costs can range from a few thousand dollars to tens of thousands of dollars or more and include an assessment, cleaning, disinfection, and any necessary modifications to the building or plumbing systems. The overall financial impact on the industry is minimal with less than two suspected outbreaks per year.

The cost to modify a stair handrail, or to protect an elevated surface, will vary based on factors such as the type or materials used, the quantity of materials needed for modification, and the location of the repair. Estimates can range from a few hundred dollars to thousands of dollars or more depending on materials and complexity.

The methods chose to address a slip hazard in a bathtub or shower will vary greatly in costs. A roll of slip resistant tape designed for indoor bathtub and shower use costs around \$12 for 15 feet compared to bathtub refinishing which has an estimated cost of around \$480.

The cost of a 10-year "worry-free" smoke alarm is approximately \$20 per alarm and can be installed by the lodging operator without any special equipment. A three-bedroom vacation home with two sleeping rooms on the first floor and one sleeping room in the basement may require six smoke alarms in the proposed language. The hypothetical vacation home would equate to \$120 to protect, or \$12 per year. Oftentimes, smoke alarms can be purchased in bundled quantities which will reduce the individual estimated cost per alarm.

The cost to rid a lodging facility of pests can vary widely depending on several factors, including the size and location of the facility, the extent of the infestation, and the specific treatment methods used. The costs can range from a few hundred dollars to thousands of dollars or more and include an assessment, treatment, and any necessary modifications to the building to prevent further infestations.

The Department presented three various fee models to the ATCP 72 Rule Revision Advisory Committee. All three models generated nearly the same targeted revenue. Model 1 had higher fees for preinspections compared to the other models. Model 2 had higher fees for annual licenses compared to the other models. Lastly, model 3 was a blend between the other models. The committee ultimately selected model 1 as the desired fee structure.

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options to 22 license options across the tourist rooming house, hotel and motel, and specialty lodging licensing fee categories.

The Department believes the fee changes proposed will have minimal effect on small businesses. The current fees have not been modified in 14 years and the proposed fees were calculated to have a three percent increase per year for hotel and motel licenses and a six percent increase per year for tourist rooming house licenses during that timeframe. The higher fee increase for tourist rooming houses reflects the increased inspection complexity, and increased time demand for scheduling and traveling compared to a traditional hotel room.

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The following tiered lodging license fee model is proposed in the revision:

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Consultation with Wisconsin Department of Natural Resources, Wisconsin Department of Health Services, ATCP 72 Rule Revision Committee members, and online searches.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements
- ☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
- ☐ Consolidation or Simplification of Reporting Requirements
- ☐ Establishment of performance standards in lieu of Design or Operational Standards
- ☒ Exemption of Small Businesses from some or all requirements
- ☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The proposed rule will provide more flexibility to businesses in complying with rule requirements that are consistent with recognized industry best practices. The proposed rule will allocate regulatory requirements in proportion to risk, and will support risk-based inspection methods. The proposed rule modifies the criteria for assigning license fees and uses a clearer and simpler licensing model. The current rule requires tourist rooming houses in excess of four keyed units to be licensed as a hotel which created confusion for operators and local zoning authorities. The proposed rule will allow for tourist rooming houses in excess of four keyed units to be licensed as tourist rooming houses instead of a hotel. The proposed rule will also introduce a new licensing category - speciality lodging unit. A speciality lodging unit will allow for more rustic structures or cabins as are available in other parts of the country.

The proposed first reinspection and administrative follow-up fees have been reduced to a flat rate \$150.00 and \$200.00 for a second, or subsequent, reinspection or administrative follow-up fee for all license types. Current reinspection fees range from \$120.00 to \$700.00.

The proposed rule is written to be more accommodating of new technologies, trends and methods. Lodging operators will be allowed more sanitization options for re-usable dishes and utensils. The operator will also have the option to post a consumer notice to allow the guest to sanitize dishware.

The proposed rule supports expeditious investigation and resolution of any waterborne outbreaks. The revised rule clearly states requirements for operators in the event of a suspected or confirmed outbreak so that it supports efficient and effective investigation of potential waterborne illnesses.

5. Describe the Rule's Enforcement Provisions

The Department has broad general authority, pursuant to s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The Department has specific authority for the requirements to issue lodging and vending licenses, pursuant to s. 97.605, Stats. The Department and agent health department have specific authority to conduct pre-licensing inspections at lodging facilities, pursuant to s. 97.607, Stats. The Department has specific authority to promulgate rules that establish fees, pursuant to s. 97.613, Stats. The Department and agent health departments have specific authority to enter into a written agreement to inspect hotels and tourist rooming houses, pursuant to s. 97.615, Stats. The Department has the authority to ensure that lodging facilities are operated and maintained with a strict regard to public health and safety, pursuant to 97.62, Stats. The Department and agent health departments have the power to

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administer and enforce rules, pursuant to s. 97.625, Stats. The Department may enforce the posting of hotel rates, pursuant to s. 97.638, Stats. The Department has specific authority to enter any premises for which is a license is required, pursuant to s. 97.65, Stats. The Department has specific authority for rule making, pursuant to s. 227.11 (2) (a), Stats.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

Wisconsin Department of Agriculture, Trade and Consumer Protection
Regulatory Flexibility Analysis

Rule Subject: Hotels, Motels, and Tourist Rooming Houses
Adm. Code Reference: ATPC 72
Rules Clearinghouse #: 24-096
DATCP Docket #: 22-R-08

Rule Summary

The department is proposing to modernize the antiquated ch. Wis. Admin. Code ATPC 72 with a repeal and recreation that will significantly overhaul the definitions section, modernize smoke alarm, and carbon monoxide alarm placement, address slip, trip, and fall hazards, update the licensing and fee structure, and enhance existing provisions to ensure a safe lodging experience and environment. Modernization also reflects gender inclusion considerations with the proposed revised language using the term “per person” in place of “male” or “female.”

The proposed updates to ch. Wis. Admin. Code ATPC 72 contain an overhaul of definitions that includes amendments, modernization and expansion of terms used in the rule for clarification. Expansion of the definitions section includes over 80 newly defined terms. This expansion is beneficial because it creates clarity, efficiency, and an opportunity for both small business and authorized representatives conducting inspections to speak the same language used within the rule.

The proposed fees and licensing structure for lodging establishments will address several critical issues. As the lodging industry evolves with new business models and technologies, the existing framework has become increasingly misaligned with current practices and economic realities. The current fees do not accurately reflect the costs of regulatory oversight needed to inspect the growing industry which can create inefficiencies and delays, impacting both regulators and businesses. The licensing structure will include three license types: tourist rooming house, hotel or motel, and specialty lodging. Each lodging type will then have multiple fee options based on the number of individually keyed units being offered for overnight sleeping accommodations. A single tourist rooming house, or vacation rental, will take more time to inspect than a single hotel room which is reflected in the associated fee. In addition, the draft rule addresses facilities that expand after receiving their initial lodging license. The rule will allow for these expanded areas to be inspected for compliance and allow for the costs to complete the work to be recouped. Lastly, the rule has introduced the specialty lodging option to adapt to more primitive lodging experiences offered in other parts of the country. Updating these elements is essential to ensure a fair and effective regulatory environment, promote industry growth, and improve the overall quality of lodging services.

The proposed rule will add an annual sampling frequency for bacteriological testing of private wells which is consistent with public water systems found at other lodging facilities. The annual testing of private wells for bacteria, such as total coliform and *Escherichia coli*, is also consistent with other recreational programs regulated by the department. In addition to bacteria, the proposed rule is also intending to include an annual sampling frequency for nitrate testing of private wells which is also consistent with public water systems at other lodging facilities. According to the Wisconsin department of health services, nitrate is one of the most common groundwater contaminants in Wisconsin and studies estimate that at least 10% of private wells in Wisconsin have high levels of nitrate. The Wisconsin department of health services also indicates high nitrates in drinking water can affect infants, pregnant individuals, and may increase the risk of thyroid disease and may increase the risk of colon cancer in all individuals.

The proposed regulation includes the current installation and maintenance requirements for carbon monoxide alarms as reflected in s. 101.149, Stats., and most recently updated in 2017 Wisconsin Act 330. The updated statute language replaced the prior requirements for carbon monoxide alarms in residential buildings with standards which are similar to those in International Building Codes. The installation focus changed to put an emphasis on sleeping areas.

The proposed rule includes installation and maintenance requirements for smoke alarms consistent with s. 101.145, Stats. The areas of installation will include every floor, at the top of any stairway, outside of each sleeping area and within each sleeping room.

The department and its agent health departments have routinely observed potential slip, trip, and fall hazards at lodging facilities during pre-licensing inspections. Most often these hazards are observed at tourist rooming houses and the structures oftentimes predate any building code requirements. The proposed language will address very basic, but essential, safeguards to address the commonly observed slip, trip, and fall hazards. Items such as handrails for staircases, guards on elevated decks, balconies, lofts or other elevated surfaces, and the addition of slip-resistant materials or bathmats in bathtubs or showers that have smooth basins would be addressed in the proposed language.

The rule has proposed language to address waterborne outbreaks and additional requirements for those outbreaks involving the bacteria *Legionella* spp. The department has been involved in 14 suspected outbreaks over the course of eight years at lodging facilities involving *Legionella* bacteria which has resulted in 33 illnesses and one death. According to the United States centers for disease control and prevention, *Legionella* bacteria cause Legionnaires' disease and Pontiac fever which are spread to people through building water systems. Legionnaires' disease is a severe type of pneumonia that can lead to lung failure and even death. If a lodging facility has a confirmed *Legionella* outbreak, then the operator will be required to develop a *Legionella* water management program to control and prevent future outbreaks. The United States centers for disease control and prevention has free online resources and a toolkit to assist operators in the development of a *Legionella* water management program.

The proposed rule text has incorporated similar language that is currently used in the Minnesota Lodging Code which may require a lodging operator to hire or consult with a licensed pest control operator in cases of an extensive infestation. The proposed rule still preserves current methods of allowing an operator to self-treat using non-restricted use pesticides for more manageable infestations.

The proposed language includes a new requirement for reporting death, injury, or food, waterborne or other communicable illnesses that requires an emergency medical service (EMS) response relating to the operation or maintenance of the lodging facility. For example, an EMS response for a guest that tripped and fell down the stairs would be reported to the department. However, an EMS response for a guest that suffers a heart attack would not be required to be reported. This data will assist in designing effective outreach and meaningful interventions and the data collected may help support future rule development. This data will be mutually beneficial to both small business and the department as they make continuous improvements in keeping guests safe and healthy.

The proposed language incorporates criticality methodology initially developed by the United States food and drug administration for their model food code to create a risk-based inspection system. This risk-based methodology seeks to identify those provisions that are more critical for protecting public health and to designate a risk level of hazards. Each code provision will be assigned as a core item, priority foundation item or priority item. Core items are typically designated for cleanliness or maintenance procedures. Priority foundation items, if left uncorrected over time, or in conjunction with other priority foundation items, may lead to illness or injury. Lastly, priority items, if uncorrected or are missing at the time of inspection, could significantly contribute to an increased risk for injury or illness; a nonfunctional or absent smoke alarm as an example. The criticality method provides clarity to industry by identifying those provisions which are more likely to cause illness or injury and supports a risk-based inspection approach. The criticality method has been adopted and is used in ch. Wis. Admin. Code ch. ATPC 75, Wisconsin food code, ch. Wis. Admin. Code ATPC 76, Wisconsin pool code, and ch. Wis. Admin. Code ATPC 78 Wisconsin recreational education camp code.

The above-mentioned rule adjustments are needed to address outdated regulatory practices, adapt to evolving industry standards, overall growth, and to ensure a continued fair and efficient oversight of the lodging industry. Current regulations do not fully reflect modern business models or accurately cover the costs for enforcement of the rule. The updated proposed rule will streamline processes, enhance compliance, and support industry growth by aligning regulations with current needs and practices.

Small Businesses Affected

The department presented three various fee models to the ATPC 72 Rule Revision Advisory Committee. All three models generated nearly the same targeted revenue. Model 1 had higher fees for preinspections compared to the other models. Model 2 had higher fees for annual licenses compared to the other models. Lastly, model 3 was a blend between the other models. The committee ultimately selected model 1 as the desired fee structure.

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Reporting, Bookkeeping and other Procedures

The proposed rule would require a registration of guests to be retained for at least three years. The information is used by department and agent staff to assist in the event of a disease outbreak investigation and allows staff to confirm where case patients stayed during their possible exposure period.

Professional Skills Required

The proposed rule does not require any professional skills or the associated costs on small businesses.

Accommodation for Small Business

The proposed rule will provide more flexibility to businesses in complying with rule requirements that are consistent with recognized industry best practices. The proposed rule will allocate regulatory requirements in proportion to risk and will support risk-based inspection methods. The proposed rule modifies the criteria for assigning license fees and uses a clearer and simpler licensing model. The current rule requires tourist rooming houses in excess of four keyed units to be licensed as a hotel which created confusion for operators and local zoning authorities. The proposed rule will allow for tourist rooming houses in excess of four keyed units to be licensed as tourist rooming houses instead of a hotel. The proposed rule will also introduce a new licensing category - specialty lodging unit. A specialty lodging unit will allow for more rustic structures or cabins as are available in other parts of the country.

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The proposed rule supports expeditious investigation and resolution of any waterborne outbreaks. The revised rule clearly states requirements for operators in the event of a suspected or confirmed outbreak so that it supports efficient and effective investigation of potential waterborne illnesses.

Conclusion

The department believes that the provisions in this proposed rule will benefit Wisconsin's lodging industry and is expected to impose a minimal impact on additional costs. The department expects stakeholders may favorably view consideration of rule provisions that allow industry more flexibility in meeting standards and more fairly allocate regulatory requirements.

This rule will not have a significant adverse effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22 (2) (e), Stats.

The department will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this 3rd day of December 2024.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By *Adam Brock*

Adam Brock, Administrator
Division of Food and Recreational Safety