



We will begin at 1:00 p.m.

Please use video during your introduction.
The meeting will be recorded.



ATCP 72 Rule Revision Advisory Committee

Ted Tuchalski, R.S. – Division of Food and Recreational Safety

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

September 26, 2023

AGENDA

1:00	Welcome – Committee Member Introductions	20 minutes
1:20	Public Appearances <i>Each speaker will be limited to 5 minutes or less, depending on the number of speakers, and must register with Andrea Northwood prior to the start of the meeting.</i>	20 minutes
1:40	Rule-making process Overview	10 minutes
1:50	Scope Statement Review	30 minutes
2:20	Open Discussion, Questions, and Comments from Committee Members	30 minutes
2:50	Upcoming Meeting Dates: October 31, 2023 November 28, 2023 December 26, 2023	5 minutes
2:55	Adjourn	



WELCOME & COMMITTEE MEMBER INTRODUCTIONS

Ted Tuchalski
Greg Stillman
Amy Springer
Krissy Sigmund
Lori Severson
Emily Schneider
Melissa O'Neill
Brandon McConnel
Cori Lamont

Craig Kratcha
Jason Kjeseth
Jim Kaplanek
Jason Hager
Trista Growth*
Bill Elliot
Andrew Dietz
Jumaane Cheatham*
David Bond

Additional attendees


Andrea Northwood
Reed McRoberts
Mary Ellen Bruesch
Steve Ingham

- Name
- Current role(s)
- Location






Division of Food & Recreational Businesses



Recreational
Businesses



Retail/Restaurant



Meat



Manufactured
Foods



Dairy




Produce



Rec Ed Camps
ATCP 78




Steph Sticka



Pools
ATCP 76



Mary Ellen
Bruesch



Campgrounds
ATCP 79



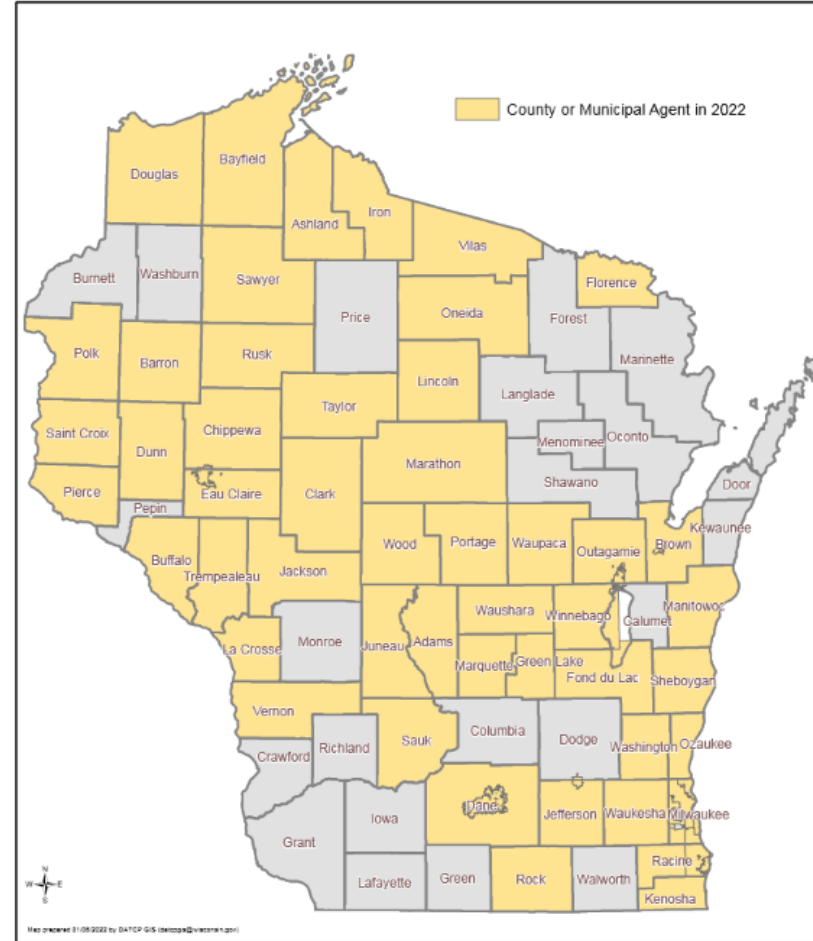
Ted Tuchalski



Lodging
ATCP 72/73



Ted Tuchalski



EXPECTATIONS

1. Please interact and provide feedback or suggestions.
 - a) Thaddeus.Tuchalski@wisconsin.gov
 - b) DATCPdfsrsec@wisconsin.gov
2. Do not settle for “we’ve always done it this way.”
3. Be present.



PUBLIC APPEARANCES

Please state your name and any comments that you have for the committee.

Comments will be noted and taken into consideration but will not be immediately discussed nor will questions be answered.

Thaddeus.Tuchalski@wisconsin.gov

DATCPdfsrsec@wisconsin.gov

05:00

Start Stop Reset mins: 5 secs: 0

type: None ▾

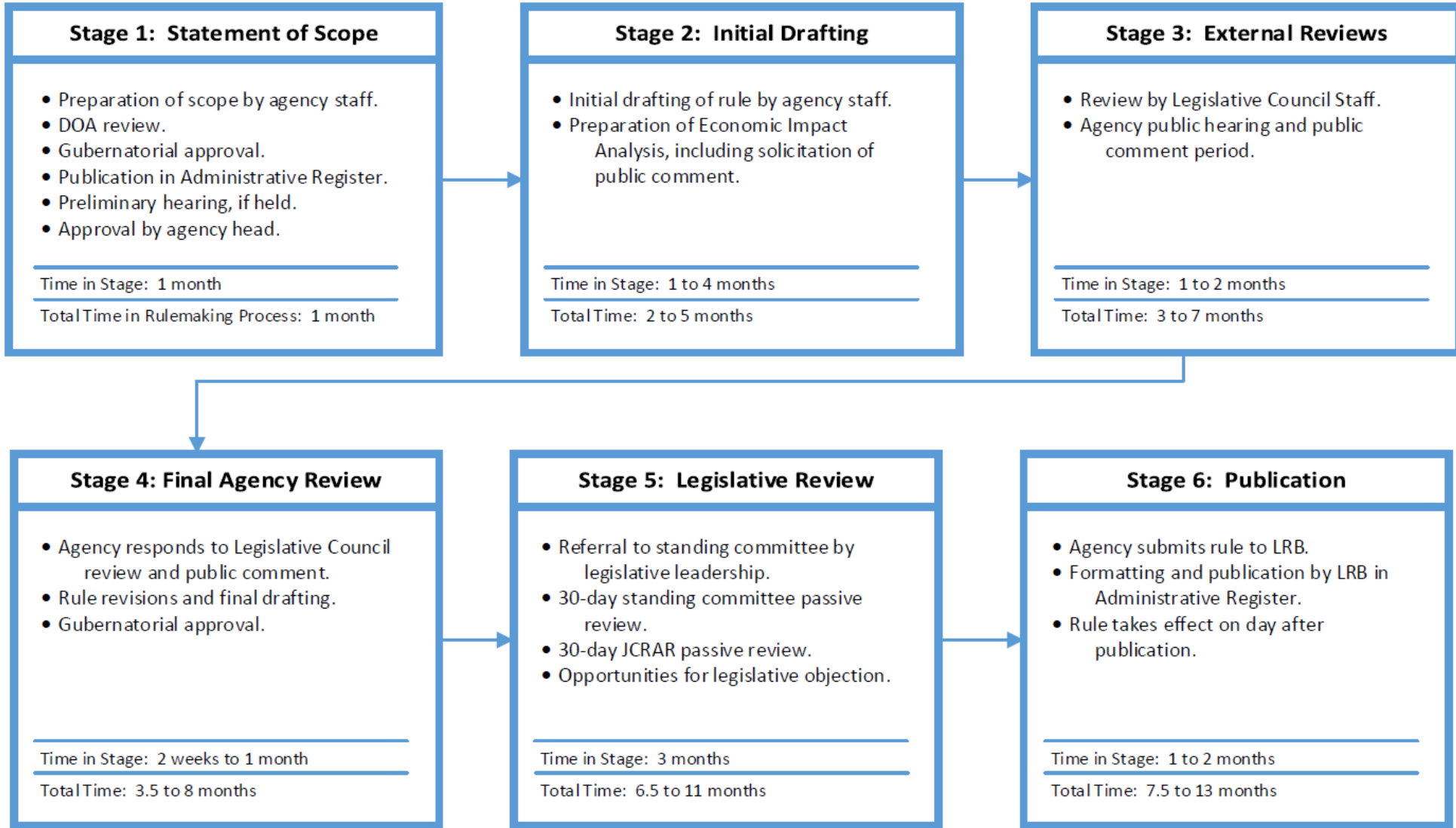
⏸ Breaktime for PowerPoint by Flow Simulation Ltd.

Pin controls when stopped



RULE-MAKING PROCESS





STAGE 1: STATEMENT OF SCOPE

- Scope preparation began 5/2022
- Governor approval: 1/26/23; expires 7/30/25
- Public hearings:
 - In person: 3/29, 3/30, 4/3
 - Online: through 4/18
- DATCP Board approval: 5/11

Stage 1: Statement of Scope

- ✓ Preparation of scope by agency staff.
- ✓ DOA review.
- ✓ Gubernatorial approval.
- ✓ Publication in Administrative Register.
- ✓ Preliminary hearing, if held.
- ✓ Approval by agency head.

Time in Stage: 1 month

Total Time in Rulemaking Process: 1 month



STAGE 2: INITIAL DRAFTING

This is where you come in – ATCP 72 Rule Revision Advisory Committee.

Stage 2: Initial Drafting

- Initial drafting of rule by agency staff.
- Preparation of Economic Impact Analysis, including solicitation of public comment.

Time in Stage: 1 to 4 months

Total Time: 2 to 5 months



STAGE 3: EXTERNAL REVIEWS

- DATCP Board approves hearing draft, economic impact analysis.
- Submit fiscal estimate and economic impact analysis.
- Legislative Council Clearing House review.
- Public comment period for drafted language.

Stage 3: External Reviews

- Review by Legislative Council Staff.
- Agency public hearing and public comment period.

Time in Stage: 1 to 2 months

Total Time: 3 to 7 months



STAGE 4: FINAL AGENCY REVIEW

- Accept or reject each comment from Legislative and public review.
- DATCP Board approval of final draft.
- Submit final rule package:
 - Clearinghouse report
 - Plain language analysis
 - Fiscal estimate
 - Summary of public comments
 - Explanation of modifications made from comments

Stage 4: Final Agency Review

- Agency responds to Legislative Council review and public comment.
- Rule revisions and final drafting.
- Gubernatorial approval.

Time in Stage: 2 weeks to 1 month

Total Time: 3.5 to 8 months



STAGE 5: LEGISLATIVE REVIEW

- Respond to standing committee and Joint Committee for Review of Admin. Rules (JCRAR) review.

Stage 5: Legislative Review

- Referral to standing committee by legislative leadership.
- 30-day standing committee passive review.
- 30-day JCRAR passive review.
- Opportunities for legislative objection.

Time in Stage: 3 months

Total Time: 6.5 to 11 months



STAGE 6: PUBLICATION

Submitted to Legislative Reference Bureau for formatting and publication.

Stage 6: Publication

- Agency submits rule to LRB.
- Formatting and publication by LRB in Administrative Register.
- Rule takes effect on day after publication.

Time in Stage: 1 to 2 months

Total Time: 7.5 to 13 months



SCOPE STATEMENT SS 010-23



SCOPE STATEMENT SS 010-23

- Governor approval: 1/26/23; expires 7/30/25
- Public hearings:
 - In person: 3/29, 3/30, 4/3
 - Online: through 4/18
- Does not include bed and breakfast establishments covered in ATCP 73.



OBJECTIVES

a) Consider expanding definitions of terms used in Wis. Admin. Code ch. ATCP 72 to provide clarity, removing definitions not used, and adding new definitions.

- Currently 21 definitions.
- Expanded to 85+ during draft writing.
 - Tourist or transient
 - Lodging facility
 - Individually-keyed unit
 - Rental group
 - Sleeping area and sleeping room
 - Good repair



OBJECTIVES

b) Consider further clarification of the differences between a tourist rooming house and a hotel or motel.

- Five or more rooms is a hotel/motel.
- Four or less rooms is a tourist rooming house.



OBJECTIVES

c) Consider adding additional licensing categories and modifying requirements for specialty lodging where basic amenities are not typically provided and special considerations for temporary special event lodging opportunities.

- Primitive cabins less than 400 square feet in area are licensed under ATCP 79 campgrounds.
- Primitive cabins larger than 400 square feet in area – specialty lodging?
- Special event lodging similar to special event campground.



OBJECTIVES

d) Consider an alternate inspection frequency for tourist rooming houses.

- 9,045 licensed tourist rooming houses
- 1,809 licensed hotels/motels



OBJECTIVES

e) Consider including a testing frequency for safe potable water at facilities served by a private well.

- Public systems are tested annually for total coliform and *E. coli*, at a minimum.
- Current code does not specify a testing frequency.



OBJECTIVES

f) Consider adding nitrate testing as part of the annual water sampling for private wells.

- Public systems are tested annually, at a minimum.
- Current code does not require nitrate testing.
- Per DHS, high nitrate (> 10 mg/l):
 - May increase the risk of thyroid disease and may increase the risk of colon cancer.
 - Can cause blue baby syndrome. A condition that affects how the blood carries oxygen.
 - Can increase the risk of birth defects.



OBJECTIVES

g) Consider removing outdated carbon monoxide alarm installation, and maintenance requirements, and update to reflect current standards as set forth in Wis. Stat. § 101.149.

- IBC changed focus from putting alarms near the fuel-burning appliances to putting alarms near the sleeping rooms.
- Wis. Stat. adopted changes in 2017 Wisconsin Act 330.



OBJECTIVES

h) Consider removing outdated smoke alarm installation, and maintenance requirements, and update to reflect current standards as set forth in Wis. Stat. § 101.145.

- Currently code only requires a single smoke alarm in tourist rooming houses.
- Each level, outside each sleeping area, and within each sleeping room.



OBJECTIVES

- i) Consider determining department responsibility with respect to the department of safety and professional services in regards to building construction and fire detection, protection, and suppression.
- Remove specific references to SPS codes.



OBJECTIVES

j) Consider addressing department-specific language for health and safety features related to slip, trip, and fall hazards commonly found in hotels, motels, and tourist rooming houses.



OBJECTIVES

k) Consider modeling International Building Code standards or other state regulations impacting hotels, motels, and tourist rooming houses, to provide greater clarity on non-gender specific toilet rooms.

- Toilets per person rather than toilets per gender.
- Businesses can choose to designate.



OBJECTIVES

l) Consider addressing emerging communicable diseases and other threats to safety. The department will consider including appropriate definitions and provisions to support lodging facilities in addressing emerging pathogens and other new threats.

- Water management programs for facilities with a confirmed *Legionella*.
 - 11 *Legionella* outbreak investigations since 2018.
- Vomit, diarrhea, blood clean-up procedures.



OBJECTIVES

m) Consider addressing pests of public health significance, such as bed bugs. Consider including action steps and enforcement procedures to be followed when pests are found.

- MN regs
- Expand beyond insects and rodents.

 NBC15

Mom finds snakes while staying at Wisconsin hotel with 4-year-old son

GERMANTOWN, Wis. (...)



OBJECTIVES

n) Consider addressing an alternative licensing fee schedule based on the program risks, facilities, and activities that more fairly aligns the lodging complexity with the appropriate licensing fee.



OBJECTIVES

o) Consider adjusting fees to incorporate the additional costs of the department to perform inspections, licensing, and investigations.

**Table ATCP 72.05 B
Fee Schedule — SFY 2012
For permits issued on or after April 1, 2011**

Type of Facility	Permit Fee	Preinspection Fee	First Reinspection Fee	Second and Subsequent Reinspection Fee
Tourist Rooming House	\$110	\$300	\$128	\$170
Hotel / Motel Permit Fee 5–30 Rooms	\$205	\$480	\$218	\$290
Hotel / Motel Permit Fee 31–99 Rooms	\$280	\$665	\$300	\$400
Hotel / Motel Permit Fee 100–199 Rooms	\$355	\$795	\$379	\$505
Hotel / Motel Permit Fee 200+ Rooms	\$490	\$1185	\$525	\$700



OBJECTIVES

p) Consider adding requirements for reporting illnesses, injuries, and accidents that require an emergency medical service response. This data will assist in designing effective outreach and meaningful interventions, and the data collected may help support future rule development.

- Death, Illnesses, Injuries (DII) form used for public swimming pools.
- Situations requiring EMS response due to death, illnesses, and injuries from the building environment.
- Not EMS response due to “person vs. person” or “person vs. self” conflicts.



OBJECTIVES

q) Consider incorporating criticality methodology throughout the rule. This risk-based methodology seeks to identify those provisions that are more critical for protecting public health and to designate the risk level of hazards. This 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.

- FDA classification that has been adopted in ATCP 75, 76, 78.
- Priority - items to prevent or limit deaths, illnesses, or injuries.
- Priority foundation - items that support, facilitate, or enable one or more priority items.
- Core - general sanitation and maintenance of facilities and equipment.



OPEN DISCUSSION



OPEN DISCUSSION

- General questions?
- Any items or situations that must be addressed in the new code?
- Is there anything that is currently working in ATCP 72 other states' lodging regulations?



UPCOMING MEETING DATES

- Tuesday, October 31, 2023
- Tuesday, November 28, 2023
- Tuesday, December 26, 2023





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