

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Repeal Modification

2. Administrative Rule Chapter, Title and Number

Wis. Admin. Code ch. ATCP 78, Recreational and Educational Camps

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

June 2016, Chapter DHS 175 was renumbered to ATCP 78 under s. 13.92 (4) (b)1. Stats.

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

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

A primary revision of the rule creates a modernized three-tier licensing model that will promote fairness to small business owners by having the license fee reflect the number of camper experiences and activities offered. The approved rule will more realistically tie the cost of the license to the complexity and risk of the camp activities and will no longer be a one-size-fits-all model. Licensing fees have not increased since 2007, but basing the licensing fee on risk and activity will help to moderate the impact of a fee increase. The Department’s analyses suggest that the overall change in total license fees charged will be low. The proposed licensing fee criteria also more fairly reflect the time and personnel costs to the Department for the inspection.

As previously stated, the proposed updates to Wis. Admin. Code ch. ATCP 78 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 50 newly defined terms. This expansion is beneficial because it creates efficiency and an opportunity for both small business and authorized representatives conducting inspections to speak the same language used within the rule. For example, an amended definition of ‘recreational and educational camp’ does not include camps that only serve families or non-developmentally disabled adults, because supervision and health services requirements are not needed for groups of adults and families who know their children’s health needs. In short, there is no value to applying recreational and educational camp supervision regulations to these situations.

Modernization of obsolete terms includes replacing ‘high risk activity’ with ‘specialized program activity’ and defining ‘trained adult’ requirements for those adults supervising campers in specialized program activities. Minimum safety standards were also proposed for use when camps offer a ‘challenge course’, firearms, archery, horseback riding, program aquatics, and motorized vehicle programming to campers. These terms align with industry best practices, such as those adopted by the American Camp Association. This alignment creates greater consistency and efficiency for regulators and camp operators alike.

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

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Camp staff are responsible for camper health and wellness, including direct oversight of camper medications, allergies, and urgent health treatment during their stay. In other words, the camp staff function as temporary parents or guardians of their campers. By modernizing the bound-book medication log requirement, the revised rule accounts for expanded medication documentation data management options, i.e. software systems, now widely available to camp stakeholders. A paper bound book for recordkeeping of camper medications and treatments is now only one of three option categories. The proposed rule will also enhance the safety of campers who need medications during their stay, by adopting use of a free online medication administration module already developed and maintained by another state agency. Use of this module is intended to give all designated camp and rental group health staff baseline knowledge necessary for dealing with a variety of medications campers may bring to camp. Utilizing an existing free training already hosted by the Department of Public Instruction is a one example of how the Department is serving as a responsible steward of state resources and avoiding unnecessary expenses.

The proposed Wis. Admin. Code ch. ATPC 78 includes a new requirement for reporting death, injury or illness that require an emergency medical service (EMS) response. 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 campers safe and healthy.

The proposed Wis. Admin. Code ch. ATPC 78 also seeks to streamline camper health requirements reflecting the variety of overnight accommodations made available to campers by the industry as both permanent and open-air sleeping experiences. The proposed rule streamlines life safety and public health standards by removing the cubic footage by age provision. This update has a positive impact on stakeholders by allowing for greater flexibility in setting cabin capacity and bed layout configurations while also reducing transmission of respiratory illnesses.

5. Describe the Rule's Enforcement Provisions and Mechanisms

ss. 93.07 (1), 97.67(1) and (4), Stats. 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, in par. 93.07 (24)(e), Stats., to enforce the laws for the sanitary care of recreational and educational camps, and the Department has authority pursuant to ss. 97.67(1) and (4), Stats., to adopt rules for recreational and educational camps dealing with fees; license issuance, pre-licensing inspection fees, reinspection fees, fees for operating without a license, and late fees for untimely license renewal. The Department has authority under subs. 93.06 (7) and (8), and s. 97.71, Stats. to set conditions on a license, suspend a license, or void a license. The Department may also issue special order requiring corrections before a camp resumes operations, pursuant to sub. 97.12 (3), Stats.

6. Repealing or Modifying the Rule Will Impact the Following (Check All That Apply)

- | | |
|------------------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> State's Economy | <input checked="" type="checkbox"/> Specific Businesses/Sectors |
| <input checked="" type="checkbox"/> Local Government Units | <input type="checkbox"/> Public Utility Rate Payers |
| | <input checked="" type="checkbox"/> Small Businesses |

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

An amended definition of 'recreational and educational camp' deregulates camps that only serve families or non-developmentally disabled adults because supervision and health services are not needed for groups of adults and families who know their children's health needs, and there is no value to recreational and educational camp supervision regulations being applied to these situations. The revised rule also creates more flexibility for compliance related to health services recordkeeping by codifying expanded medication documentation data management options widely available to camp stakeholders. This update will allow existing medication bound book variances to sunset and decrease the need for new variance applications. This mutually reduces burden on small business and the Department's time to process variance requests.

The financial impact of the modernized license and fee model is low, with fees corresponding to the number and type of

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camp experiences offered, through a tiered model. Camps would be placed into simple, moderate and complex categories, in place of the existing one-size-fits-all model. More complex camps, which generally are larger operations, would pay a higher license fee. The proposed changes in criteria for license fees were tested by applying the proposed criteria to all 59 state-inspected recreational and educational camps. Results of the survey indicated an even distribution across all three proposed license types with: 17 camps estimated to be categorized as simple, 24 camps as moderate, and 18 camps as complex.

The following tiered recreational and educational camp license fee model is proposed in the revision:

- Simple \$490
- Simple with Hospitality \$540
- Moderate \$530
- Moderate with Hospitality \$635
- Complex \$570
- Complex with Hospitality \$715

This update results in a cost savings for any camp offering additional hospitality activity such as retail food service, lodging, and camping to other adult guests and families within the confines of the camp, utilizing the same camp structures. The hospitality categories enables a camp to offer one, two or all three additional activities in a way that fits with each camp's business model. The proposed licensing structure also provides a way for adults and families to follow the applicable lodging or campground rule, instead of health and supervision requirements of Wis. Admin. Code ch. ATCP 78, currently in force when camps extend their services beyond campers such as family camps, adult retreats, wedding parties or various online lodging rental platforms.

The modernized license model "with hospitality activity" reflects a newly created efficiency and therefore offers a discounted price when bundled with the recreational and educational camp license compared to obtaining multiple licenses separately. The model is efficient because it enables one routine inspection to include all applicable activities, thus saving the Department and small business time from multiple inspections when requirements for safe drinking water, garbage disposal, carbon monoxide detection and Wisconsin Food Code standards already exist within Wis. Admin. Code ch. ATCP 78.

Camp operators will also incur the economic impact associated with newly proposed requirements for camp staff background checks, camp staff training, providing camper safety equipment, and inspection of challenge courses on camp premises. These requirements are consistent with industry standards. The challenge course inspection and staff background check frequency is proposed for every two years, rather than annually, to ease the annual economic burden on small business. For a simple camp operation, the only additional cost would be for background checks. For example, a simple camp with 10 staff, would incur an additional annual cost of approximately \$200. For more complex camp operations the following is a breakdown of the overall costs depending on the activities provided.

New camper safety provisions for proper protective headgear for campers and staff under 18 when a camp offers challenge course elements, horseback riding, or motorized vehicle usage would be approximately \$150 per helmet based on industry stakeholder feedback.

Camps with aquatic program activities will save money going forward due to a clarification in the revised rule requirements for rescue poles at waterfront and on a rescue boat. An existing industry standard of an oar or paddle serving as a reaching pole in a rescue boat is now stated in the proposed revision. The revision also does not require a reaching pole at the waterfront since Wis. Admin. Code ch. ATCP 78 already requires lifeguard supervision, and lifeguards are also required to carry rescue equipment to use in responding to distressed swimmers.

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New costs would be incurred by business operators in meeting new camper safety requirements in Wis. Admin. Code ch. ATCP 78. These costs include staff time and proper training for supervising specialized program activities, such as archery, horseback riding, firearms, and challenge course elements, and the costs of staff training in camper sexual abuse prevention, and medication administration. Having staff trained in these topics is considered industry best practice and is a voluntary standard of the American Camp Association. Examples of certification courses include:

- Archery; National Archery School Program estimated cost of \$150 per person
- Firearms; Wisconsin Department of Natural Resources hunting safety course \$10 per person for traditional classroom instruction
- Camper sexual abuse prevention; various camp insurance vendors, complimentary
- Medication Administration; WI DPI online module, complimentary
- Challenge Course; ACCT Level 1 certification, \$700 per person
- Horseback riding; Certified Horsemanship Association estimated cost of \$700 per person

Camps that offer low- and high-element challenge courses will bear the financial impact of newly proposed requirements for an on-site inspection of the elements and life safety equipment. These requirements may impose a biannual cost of \$900-3,000 per camp that utilize activities such as aerial adventure and ropes courses, climbing walls, and zip lines. There is no other government agency responsible for safe operation, inspection and upkeep of these challenge courses. Industry stakeholders shared they already pay for these inspections to meet insurance requirements.

Requirements for camp health services training qualifications will be more flexible under the revised rule. The proposed rule raises the EMS target response time from the existing 15 minutes up to the industry standard threshold of 30 minutes. The proposed rule reduces the required training for health services staff to only one or two basic first aid and CPR courses. This will save money and time spent currently on advanced CPR courses to meet the requirements of the existing rule.

Updates to Wis. Admin. Code ch. ATCP 78 also include the addition of provisions for written procedures that camp operators may follow to earn reduced inspection frequency. These proposed revisions are reflective of recently passed legislation. Meeting the new requirements would allow camp operators to demonstrate effective managerial control of public health hazards.

The revised rule includes requirements related to hiring and maintaining recreational and educational staff; these requirements are not new to most Wisconsin camps. The revised rule proposes performing a criminal background check, including a national sex offender search, for new hires and for existing staff every 24 months. The revised rule also requires camp staff to complete camper sexual abuse prevention training. The criminal background check requirement is estimated to cost \$40 per camp staff member. It was noted by various industry stakeholders that many insurance companies already offer free camper sexual abuse prevention training modules. The background checks in combination with staff training create a less conducive setting for potential offenders at Wisconsin camps serving youth and by protecting camper health and safety, are consistent with the Department's mission to protect public health.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

Regulatory partners, industry stakeholders and national and state level subject matter experts have all been part of this entire rule revision process through virtual communication methods concurrent with COVID-19 pandemic protocols. The Department also provided rule revision status updates to various industry and regulatory association meetings over the last year. Stakeholders have all shared their eagerness for rule revision.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

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- 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:

10. Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

11. Chapter 20, Stats. Appropriations Affected

Wis. Stat. § 20.115(1)(gb) Food, lodging, and recreation.

12. Fiscal Effect of Repealing or Modifying the Rule

- No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The Department estimates that the work associated with developing and promulgating the proposed rule will require .25 FTE of staff time. The alternative to updating 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 allowed under the existing rule. Industry groups and associations would find this alternative undesirable as they are eager for the rule to be updated to reflect current industry best practices and trends. Furthermore, the Department would need to devote additional time and resources to resolving the confusion, thus impeding implementation of the existing code (consultation, staff training and special workshops for industry).

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

- Yes No

15. Long Range Implications of Repealing or Modifying the Rule

The Department expects the proposed rule to have a positive long range impact on all stakeholders because it will give more flexibility for businesses in complying with rule requirements that are consistent with recognized industry best practices, allocate regulatory requirements in proportion to risk, and will lead to risk-based inspection methods. The revised rule will save the Department, its local health department agents, and industry stakeholders time by allowing camp operators to use the more efficient electronic systems widely available for medication documentation and data management. This update will allow existing medication bound book variances to sunset and decrease the need for new variance applications. This flexibility will simultaneously reduce the record-keeping burden on small business and drastically lower Department time to process variance requests. The rule revision will also eliminate the existing requirement for camps to write and follow policies for EMS-15 minute response time. Furthermore, the rule revision reduces the additional time and resources involved with resolving confusion created by the existing rule not keeping pace with changes that have occurred with camps and camper demographics.

16. 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 camp. All Wisconsin recreational and educational camp kitchen design and food preparation activities are required to follow ch. ATCP 75 and its Appendix that references and mirrors much of the 2013 FDA Model Food Code, as well as FDA Model Food Code updates accepted by the FDA since 2013. The newly proposed playground equipment section was developed through review of voluntary safety guidelines included in the United States Consumer Product Safety Commission's Public Playground Safety Handbook, 2010 edition. The Code of Federal Regulations: 16 CFR 1513, which regulates bunk beds for minors constructed after June 19, 2001, is also referenced in the rule. Lastly, Code of Federal Regulation, 33 CFR part 175 is cited relative to the use of personal floatation devices at camps offering boating activities.

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

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Illinois Youth camp health, safety and licensing are pursuant to Youth Camp Act 210 ILCS 100 and administrative code sections 810.10-150.

Camp health services in Illinois pursuant to 810.90 (d) only requires a minimum of one person with a current American Red Cross Standard First Aid Certificate or equivalent on the premises at all times when a youth camp is in operation. Camper health recordkeeping is broader than Wisconsin. Illinois requires each youth camp to maintain and keep current a record of first aid cases treated by designated first aid personnel during the camp operating period. Indiana is also similar to Illinois health services staffing per 410 IAC 6-7.2-17a. in requiring that there shall be an individual present who is designated as the health supervisor and who has completed at least the Red Cross Standard First Aid Course or its equivalent.

Illinois requires a lifeguard for supervision at a swimming beach but does not provide any minimum ratio.

Iowa- Resident camp licensing in Iowa is pursuant to childcare administrative rule, IAC 441-109.1 Resident camp programs may be exempt from attaining a child care license through several exemptions, including those that receive national accreditation.

Michigan Camp programs and/or sites are licensed separately, with camper health and safety pursuant to administrative rule, R400. This includes adult and children's camp types; residential, day, travel, troop, and site.

Michigan already requires camp staff background checks. Michigan is also the most similar to Wisconsin in waterfront camper safety, supervision and health care staffing qualifications. Medication recordkeeping is included using more broad language. A Michigan camp is required to maintain a permanent medical record of treatment prescribed or medication dispensed to campers.

Minnesota Youth camp health, safety and licensing are pursuant to Minnesota state statute 144.71 and rule 4630.2300-.4700.

Minnesota rule does not specify health qualifications of camp staff but does require the camp operator to designate one or more duly licensed practitioners of the healing arts to be called in the case of an emergency. The camper health recordkeeping requirements are broader than ch. ATCP 78, that require detailed records of the individual's illnesses and injuries occurring and the first aid treatments given during the period of attendance at camp.

Minnesota requires supervision of waterfront activities, but does not specify any qualifications such as the minimum ratios of lifeguards and attendants to campers set in ch. ATCP 78.

Wisconsin is also leading other states to create safety provisions related to camps with challenge courses, such as aerial adventure, ropes courses, climbing walls or zip lines through review and input from national industry subject matter expert representatives from the Association of Challenge Course Technology (ACCT) and Professional Ropes Course Association (PRCA) during the rule revision process.

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