

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: **Recreational and Educational Camps**
Adm. Code Reference: **ATCP 78**
Rules Clearinghouse #: **Not assigned**
DATCP Docket #: **19-R-06**

Rule Summary

The Department and its agent local health departments combined license approximately 230 recreational and educational camps throughout the state. The estimated direct annual Wisconsin economic impact of these camps, based on the 2020 American Camp Association Wisconsin Camp Economic Impact Findings Report, is 5,003 employees and \$109.2 million in labor income. Wisconsin recreational and educational camps have a rich history, with 73% in operation for more than 50 years. A recreational and educational camp holds supervisory responsibility for campers who stay overnight using temporary and permanent structures where food or lodging are provided. Camps conduct planned program activities for the primary purpose of providing an indoor or outdoor group living experience for campers. The activities meet social, recreational, spiritual, and educational objectives, and are offered during one or more seasons of the year.

The Department is proposing to modernize 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 during primitive camping activities.

Small Businesses Affected

The proposed revisions are consistent with industry standards set by groups such as the American Camp Association. The Department believes the changes proposed will have minimal effect on small businesses, as the proposed rule aligns with industry standards. The financial impact of the modernized license and fee model is low, with fees corresponding to the number and type of 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. A proposed licensing structure is included in the rule. This licensing structure accommodates additional hospitality activity such as lodging, retail food service and camping offered to families and other adult guests within the confines of the recreational and educational camp, utilizing the same camp structures. When a camp adds hospitality to its category it does not have to meet the normal requirements for health and supervision when providing the hospitality activities, i.e. when the recreational and educational camp is only used for families or for non-developmentally disabled adults. Obtaining the proposed license with hospitality is much less expensive than obtaining the additional

applicable licenses separately. Licensing fees have not increased since 2007, but basing the licensing fee on risk and hospitality activity will help to moderate the impact of a fee increase. The 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 categories with: 17 camps categorized as simple, 24 camps as moderate, and 18 camps as complex.

The following tiered recreational and educational camp license 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 cost savings for any camp offering an 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 enable a camp to offer one, two or all three additional activities in a way that fits with each camp’s business model. This licensing structure also provides a way for adults and families to follow the applicable lodging or campground rule, instead of the 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 to 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.

Here are a few examples of economic impact using the existing license and fee model:

	Current Rec Ed Camp License Fee	Retail Food License	Campground License	Lodging License	Total
Camp A	\$505	\$265	NA	\$110	\$880
Camp B	\$505	\$65	\$305	NA	\$875

Here are the same camps with proposed license and fee model:

	Rec Ed Camp License Fee	Retail Food License	Campground License	Lodging License	Total	Economic Impact
Camp A= moderate with hospitality			\$635		\$635	Savings of \$245
Camp B= complex with hospitality			\$715		\$715	Savings of \$160

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 to occur 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 cost approximately \$150 per helmet based on industry stakeholder feedback.

Camps with aquatic program activities will save money going forward due to a rule clarification on rescue poles at waterfront and on a rescue boat. The use of an existing standard oar or paddle as a reaching pole in a rescue boat is now recognized in the proposed revision. The revision also includes the removal of the reaching pole requirement at the waterfront since ch. ATCP 78 already requires lifeguard supervision, and lifeguards are already required to carry rescue equipment to respond to distressed swimmers.

New costs would be incurred by business operators in meeting new camper safety requirements in the revised rule. These costs include the cost of 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 course costs 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 Department of Public Instruction 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 for each camp that utilizes activities such as aerial adventure and ropes courses, climbing walls, and zip lines. There is no other government agency responsible for the 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. This reduces the required training for health services staff to only one or two basic first aid and CPR courses and will save money and time spent 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 new requirements related to the hiring and maintaining of recreational and educational camp staff; however 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. As noted by various industry stakeholders, many insurance companies already offer free camper sexual abuse prevention training modules. The requirement for background checks, in combination with staff training, creates a less conducive setting for potential offenders at Wisconsin camps serving youth and, by protecting camper health and safety, is consistent with the Department's mission to protect public health.

Reporting, Bookkeeping and other Procedures

The proposed rule will require additional reporting as is consistent with industry-wide best practices. The Department will provide a standardized form to report death, injury or illness that require an ambulance response.

Camp operators will be required to maintain additional documentation that includes: camps serving rental groups written agreements completed with each rental group, camp staff background checks, a background check threshold policy, specialized program activity and camper sexual abuse prevention camp staff training documentation, challenge course inspection documentation, written lifeguard and attendant waterfront staffing plan.

Optional additional recordkeeping includes: written standard operating procedures to be presented if a camp seeks to show effective managerial control of public health hazards that may, by statute, lead to reduced inspection frequency, an off-site written food safety plan for use if a camp offers backcountry or primitive camping experiences, and an automated external defibrillator (AED) testing log if an AED is provided on camp premises.

Professional Skills Required

Consistent with industry standards, the proposed rule does require new professional skills to be acquired by camp operators. These skills are primarily obtained through training related to qualified adult supervision required when a camp offers any of the following activities to campers: Archery (National Archery School Program), Firearms (Wisconsin Department of Natural Resources hunting safety course), a Challenge Course (Association of Challenge Course Technology Level 1 certification), and horseback riding (Certified Horsemanship Association program).

Accommodation for Small Business

The proposed rule does recognize exclusions from recreational and educational camp licensing requirements. Accommodations are made for small business models such as camps that offer an unlimited number of stays for fewer than four consecutive overnights without any permanent facilities for food and lodging, adult and family retreats for recreation and education, overnight accommodations at an accredited academic institution for credit, and overnight stays related to professional sports team training camps, competitions, tournaments, visitations or attendance at a campus conference.

The revised rule will expand on the requirement for the bound-book medication log and thereby save time for the Department, its local health department agents, and industry stakeholders by allowing camp operators to use the more efficient electronic systems widely available for medication documentation and data management. This update will allow existing medication bound book variances to sunset and decrease the need for new variance applications. This flexibility will simultaneously reduce the record-keeping burden on small business and drastically lower Department time to process variance requests. The rule revision will also eliminate the existing requirement for camps to write and follow policies for EMS-15 minutes response time.

Conclusion

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. Furthermore, the rule revision reduces the additional time and resources involved with resolving confusion created by the existing rule not keeping pace with changes that have occurred with camps and camper demographics over the years.

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.

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

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

Dated this _____ day of _____, 2021.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Steven C. Ingham, Administrator,
Division of Food and Recreational Safety