



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Report From Agency

DATE: May 1, 2025

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

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

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

SUBJECT: Clearinghouse Rule 24-096 Final Draft Rule repealing and recreating ch. ATCP 72 relating to the regulation of Hotels, Motels and Tourist Rooming Houses.

Proposed Rule

The proposed rule is attached.

Reference to Applicable Forms

There are no applicable forms.

Fiscal Estimate and EIA

The fiscal estimate and EIA are attached.

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

The Department 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

Wisconsin - America's Dairyland

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • Wisconsin.gov

An equal opportunity employer

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.

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 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.

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.

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

Public Hearing Locations

The Department held 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.

List of Public Hearing Attendees and Commenters

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

Commenter #	Name and Address	Position Taken (Support or Opposed)	Method of Commenting (Oral or Written)
1.	Andrew Hoyer-Booth, Executive Director Wisconsin Association of Local Health Departments and Boards 563 Carter Court, Suite B Kimberly, WI 54136	No Position Taken	Written

	920-560-5638 www.walhdab.org		
2.	Steve Beining Town of Draper Supervisor (and Draper Volunteer Firefighter) 920-207-9666	No Position Taken	Written
3.	Jake Levy 333 E Washington Street West Bend WI 53095 jake.levy@washozwi.gov	No Position Taken	Written
4.	Nicole Kragness, RS President Elect, on behalf of the Wisconsin Environmental Health Association (WEHA). 720 Second Avenue Eau Claire, WI 54703 (715) 492-2005 Nicole.Kragness@eauclairecounty.gov	Support	Written
5.	Keith Hendricks, RS Environmental Health Program Manager/ Deputy Health Officer Racine County Public Health Division 9531 Rayne Road, Suite V Sturtevant, WI 53177 262-898-4460	No Position Taken	Written
6.	Emily Truell Owner Lake Arrowhead & Lakeside Campgrounds 920-295-3000	No Position Taken	Written
7.	Margaret Jaberg 8075 N 38th Brown Deer 414-550-5076 mj@restrategies.org	No Position Taken	Oral and Written
8.	Brandon McConnell 3459 South Shore Drive Delavan, WI 53115 608-746-0010 bmccConnell@lakelawnresort.com	Support	No Comment
9.	Adam Reek 6421 W Wisconsin Ave Wauwatosa 53213 7158923163 ar@staymke.com	No Position Taken	Oral

10.	Ann M. Miller 2604 Grove Rd Baileys Harbor, WI 54202 info@gustavesgetaway.com	No Position Taken	Written
11.	Beth Chajnacki Vacation Rental Management Company 2835 Remys Way Green Bay, WI 54313	No Position Taken	No Comment
12.	Stephanie Sticka DATCP 3865 Wequiock Road Green Bay, WI 54311	Support	Written
13.	Linda Zillmer 920 Holly Hill Lane Birchwood, WI 54817	No Position Taken	Oral
14.	Herbert Maves N6324 830 th Street Elk Mound, WI 54739	No Position Taken	Oral
15.	Mark Nelson 25131 Birch Haven Road Webster, WI 54893	No Position Taken	Other
16.	Travis Haines 8285 County Line Drive Rosholt, WI 54473	Oppose Part, Favor Part	Written
17.	Nicole Kragness Eau Claire City-County Health Department 1312 Cumming Avenue Eau Claire, WI 54701	Support	Oral and Written
18.	Meghan Williams Health Officer Langlade County Health Department 1225 Langlade Road Antigo, WI 54409	No Position Taken	Written
19.	Lindsay Benaszkeski Environmental Health Sanitarian Portage County Health and Human Services Division of Public Health 817 Whiting Ave. Stevens Point, WI 54481 715-345-5771	No Position Taken	Written
20.	Lawrence J. Robe III, CMCA, AMS General Manager Knickerbocker on the Lake	Oppose Part	Written

	1028 E. Juneau Avenue Milwaukee, WI 53202 Cell: 414-837-1028 Office: 414-276-8506		
21.	Bill Elliott, CAE President & CEO Wisconsin Hotel and Lodging Association 125 N. Executive Drive, Suite 206 Brookfield, WI 53005 (262) 782-2851 ext. 10 belliott@wisconsinlodging.org	Oppose Part	Written
22.	Nina Fraulini Senior Government Affairs Specialist IDEXX Water One IDEXX Drive Westbrook, Maine 04092 nina-fraulini@idexx.com	Oppose Part	Written
24.	Cori Lamont Vice President of Legal and Public Affairs Wisconsin Realtors Association 4801 Forest Run Road Madison, WI 53704 262-309-2724	Oppose in Part	Written
25.	Christopher Hinz Northwest Field Services Supervisor Wisconsin Department of Agriculture, Trade, and Consumer Protection 2811 Agriculture Drive Madison, WI 53708	No Position Taken	Written
26.	Govindbhai Patel 1439 Fairmont Avenue Eau Claire, WI 54703	No Position Taken	No Comment

Public Hearing Comments and Department Responses

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

Rule Provision	Public Comment	Department Response
General	Local fire departments need to be able to properly assess public safety risks in tourist rooming houses and conduct a fire inspection. (2),(13)	The Department proposes no change. The Department does not have any jurisdiction over local fire inspection programs. These requirements are best addressed at the local level through county or municipal ordinance.

General	<p>Campground rental for lodging (camping cabins) (park models), and tiny homes on skids, are not addressed in lodging rules.</p> <p>(13)</p>	<p>The Department proposes no change.</p> <p>Operator-provided camping units (cabins) less than 400 square feet in area and recreational vehicles (park models) are addressed in ch. ATCP 79 Campgrounds.</p> <p>Tourist rooming houses located in campgrounds and tiny homes offered to tourists or transients would be addressed under this proposed rule.</p>
General	<p>Tourist rooming houses are affecting affordable housing and access to housing in rural areas of the State.</p> <p>(13)</p>	<p>The Department proposes no change.</p> <p>Affordable housing and access to housing is not within the scope of ch. ATCP 72.</p>
ATCP 72.03	<p>Add definition for restricted use private water system or use different terminology.</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make following changes to s. ATCP 72.16(2)(h) and removed “restricted use” and replaced with “discontinue” for clarity.</p> <p>(h) <i>Unsafe potable water.</i> The operator shall:</p> <ol style="list-style-type: none"> 1. Prohibit the use of the entire private water system when bacteriological analysis under par. (e) 2. confirms the presence of <i>Escherichia coli</i>.^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}
ATCP 72.03	<p>Add definition for business.</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make the following change:</p>

		(12) “Business” means a person’s regular occupation, profession, or trade.
ATCP 72.03 (7)	The definition of a basement conflicts with the exiting requirements for tourist rooming houses. The definition appears to exclude walk-out basements which appear allowable in the exiting requirements.	The Department agrees and included the definition of a “ground floor”. The word “ground floor” has been included with “basement” in the tourist rooming house exiting requirements.
	(3)	<p>(39) “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.</p> <p>(4) EXITS FROM SLEEPING ROOMS. This section only applies to a tourist rooming house</p> <p>(a) <i>A basement or ground floor used for sleeping.</i> A basement or ground floor used for sleeping shall be provided with at least 2 separate exits in accordance with the following requirements: ^P</p> <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}</p> <p>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}</p>
ATCP 72.03 (55)	To ensure clarity, consistency, and fairness, we propose that the beginning of the lodging code, explicitly define that the operator includes an association, a management company, or another entity.	The Department agrees and has modified the following definitions for clarity.
	(20)	(55) “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.

		(56) "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.
ATCP 72.03 (88)	Change definition to account for tiny house structures and bunk houses that have been constructed in accordance with UDC code for sleeping but are under 400 sq. feet. (1),(4),(17)	The Department proposes no change. Specialty lodging was proposed for unconventional lodging options where there are no liquid or water-carried waste plumbing fixtures. Building structures less than 400 square feet, in full compliance with UDC code, can be licensed as a tourist rooming house currently in ch. ATCP 72.
ATCP 72.06	Unnecessary Mandate Plan Review Submission Requiring a plan review without clear justification, particularly for an applicant not triggering DSPS code compliance, would impose an unnecessary mandate. Over-regulating short-term rentals like hotels could increase costs for hosts, potentially discouraging them from renting their properties. This could negatively impact local communities that rely on short-term rentals to attract visitors seeking a more authentic experience and contribute to the local economy. (24)	The Department proposes no change. The Department does not mandate a plan review for all new lodging licenses, but may require a Department or agent plan review for a new license application or in instances where alterations are made to an existing lodging facility. The Department's plan review would be independent of any required construction plan reviews. It would be conducted to better understand the layout of the lodging facility with respect to sleeping room locations, egress pathways, and location of fire safety equipment. Plan reviews may be required and conducted by other agencies such as the Wisconsin department of natural resources, Wisconsin department of safety and professional services, or local government authorities, based on their administrative rules, statutes, or ordinances, irrespective of ch. ATCP 72.
ATCP 72.07	Tourist rooming houses should be licensed separately instead of being grouped together. (13)	The Department proposes no change. The current proposed fee schedule requires tourist rooming houses to be assigned their own

		license and the fee is determined by the number of tourist rooming houses on a given premises.
ATCP 72.07 (1) (c)	In the fee section for Tourist Rooming House, where lodging unit is based on individually keyed units, is the expectation that all units are assembled on one site, or can they be scattered locations? (7)	The Department proposes no change. ATCP 72.07 (1) (c) describes licensing determination. Tourist rooming houses on scattered locations could be issued a single license if they are located on a single premises.
ATCP 72.07 (1) (c) 3.	The current proposal fails to address other common interest communities and similar structures. The lodging rules should simply apply equally to all lodging properties across the state, ensuring uniform enforcement across all lodging establishments. (20)	The Department agrees and has removed this section pertaining to condominium associations and has provided clarification to the definition of an "operator" and "person". 3. A condominium association may be the license holder of a lodging facility by meeting all of the following: a. The condominium association is responsible for all maintenance of the facilities to include the interior and exterior of the buildings and the premises. b. The condominium association is responsible for the payment of all department or agent issued fees. c. The condominium association shall have detailed in their bylaws or documented in a legal contract signed by both the association and the owner of the condominium unit, that the condominium association is responsible for complying with ch. ATCP 72.
ATCP 72.07 (1) (c) 3.	One concern we have about the currently proposed language revolves around insurance issues and claims. To solve this, we request that DATCP adds a "d" to s. ATCP 72.07 (1) (c) 3. that indicates "the requirements in sub 3. may be met by the association's governing documents or legally binding contract between the association and the unit owner, and any / all costs or responsibilities herein may be assessed and / or designated to the unit	The Department agrees and proposes to remove the section regarding condominium associations and has provided clarification to the definition of an "operator" and "person". 3. A condominium association may be the license holder of a lodging facility by meeting all of the following: a. The condominium association is responsible for all maintenance of the facilities to include the

	<p>owner in accordance with its governing documents or legally binding contract."</p> <p>(21)</p>	<p>interior and exterior of the buildings and the premises.</p> <p>b. The condominium association is responsible for the payment of all department or agent issued fees.</p> <p>c. The condominium association shall have detailed in their bylaws or documented in a legal contract signed by both the association and the owner of the condominium unit, that the condominium association is responsible for complying with ch. ATCP 72.</p> <p>(55) "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.</p> <p>(56) "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.</p>
ATCP 72.07 (2)	<p>Consider a license expiration 12 months after issuance rather than a July 1st to June 30th license period.</p> <p>(9)</p>	<p>The Department proposes no change.</p> <p>License expiration dates are determined by Wis. Stat. § 97.605 (5) (a) which states, "except as provided in par. (b), all licenses expire on June 30, except that licenses initially issued during the period beginning on April 1 and ending on June 30 expire on June 30 of the following year."</p>
ATCP 72.08 Table A & B	<p>There is an unnecessary number of license categories here. TRH's could be 1-4, 5-19, 20-100, and 100+.</p> <p>(1),(4),(17),(18)</p>	<p>The Department proposes no change.</p> <p>These licensing categories were developed to account for all of the varying lodging accommodations in the 72 counties in Wisconsin.</p>
ATCP 72.08	Excessive Fee Increases	The Department proposes no change.

	<p>The proposed rule requiring short-term rental owners to obtain a license and undergo a one-time inspection raises fees for a single-unit rental from \$410 to \$888, creating a significant financial burden that could force small-scale hosts to cease operations.</p> <p>While the proposal claims inspecting a house takes longer than inspecting a hotel room, this reasoning does not justify such a steep fee increase. A basic inspection is similar for both short-term rentals and hotels.</p> <p>(24), (16)</p>	<p>The lodging fees are based on the amount of time to conduct the inspection, enforcement, if needed, licensing and administrative costs. The Department proposed three different licensing models to the ATCP 72 Rule Revision Advisory Committee, and the proposed fee structure was the model that was selected.</p> <p>Fees for tourist rooming houses have not increased since 2010 and the new fee structure represents a 6% fee increase per year over the course of 15 years.</p> <p>The proposed annual fee for a single tourist rooming house is \$296, up from \$110.</p> <p>The proposed one-time preinspection fee is \$592, up from \$300, which reflects the multiple visits often needed to license a tourist rooming house.</p>
ATCP 72.08	<p>Suggest a significant decrease in licensing fees for tourist rooming houses to increase compliance with licensing requirements and onboarding and increase the fees for hotels and motels.</p> <p>(3)</p>	<p>The Department proposes no change.</p> <p>The lodging fees are based on the amount of time to conduct the inspection, enforcement, if needed, licensing and administrative costs. The Department proposed three different licensing models to the ATCP 72 Rule Revision Advisory Committee, and the proposed fee structure was the model that was selected.</p>
ATCP 72.09 (1) (b)	<p>Reinspection criteria are written into the proposed code; what if our agent department has a different reinspection policy? Recommend adding a phrase the agent departments may reinspect based on ordinance/policy.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>Local health departments that are agents of the Department have the ability through ordinance to have stricter requirements than are required in the proposed administrative rule.</p>
ATCP 72.14 (3)	<p>The department or its agent shall inspect a lodging facility at least once during the licensing period or as approved in writing by the department.</p> <p>The phrase "at least once during the</p>	<p>The Department agrees and proposes to make the following changes for clarity.</p> <p>(3) FREQUENCY OF INSPECTION. The department or its agent shall inspect a lodging facility at least once during the licensing period.</p>

	<p>licensing period or as approved in writing by the department" is unclear, as it doesn't specify when the inspection will occur within the licensing period. Additionally, requiring written approval for inspection timing introduces further ambiguity, leaving operators uncertain about when inspections will happen.</p> <p>(24)</p>	<p>The agent may propose a different inspection frequency to the department which may only be implemented if approved by the department in writing.</p> <p>Routine inspections are typically unannounced and can occur at anytime during the licensing year dependent upon on the availability of the operator and workload of the department or its agent.</p> <p>Tourist rooming house routine inspections are typically scheduled with the operator during the licensing year due to the nature of their location and an offsite operator or management company.</p>
<p>ATCP 72.14 (4) (b) 4. a.</p>	<p>The draft code states that all priority violations be corrected within 3 days, while in the smoke detector section it states that they have 5 days to install smoke alarms even though it is a priority violation.</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make the following changes for clarity.</p> <p>The 5 day response time for smoke alarm violations is a Wis. Stat. § 101.145 (3) (c) requirement.</p> <p>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.</p>
<p>ATCP 72.14 (4) (b) 4. a.</p>	<p>With respect to carbon monoxide alarms: 5-day compliance vs. correction on priority violation timeline.</p> <p>(1),(4),(17)</p>	<p>The Department agrees clarification is needed.</p> <p>Wis. Stat. 101.149 (3) (am) requires that the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that carbon monoxide detector functional.</p> <p>The Department proposes the following for clarification.</p> <p>a. A violation of a priority item shall be corrected immediately. Depending on the nature</p>

		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.
ATCP 72.16 (2) (d) 2.	Recommend it specify “potable” vehicular water tank. (1),(4),(17)	The Department agrees and proposes to make the following change for clarity. <i>d) Temporary water service disruptions.</i> 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
ATCP 72.16 (2) (e) 2.	Code reference of s. NR 140.10 is not all-encompassing. NR 140.10 only calls out <i>E. coli.</i> , not total coliform. (1),(4),(17),(18)	The Department agrees and proposes to make the following change. <i>(e) Private well water testing; bacteriological.</i> 1. The operator shall have bacteriological analysis performed for total coliform and <i>Escherichia coli</i> consistent with approved testing methods pursuant to s. ATCP 77.02 (3). ^{Pf} 2. <i>Escherichia coli</i> and total coliform analysis shall not exceed zero colony forming units pursuant to and ss. NR 140.10 and 140.20(3) ^P
ATCP 72.16 (2) (e) 2.	Please consider referencing s. NR 140.24(1) for further clarification. If the source of total coliform bacteria is determined to be from a regulated facility, practice, or activity, response actions under s. NR 140.24 may be required. NR 140.24 (1) When the results of any private well sampling attain or exceed a preventive action limit, the owner or operator of the	The Department proposes no change. NR 140.24(1) refers to the Wisconsin department of natural resources response when a preventive action limit is attained or exceeded for drinking water. The Department addresses notification of <i>E. coli</i> , total coliform and nitrate contamination of a private well in s. ATCP 72.16 (2) (g) 4.

	<p>facility, practice or activity shall notify the department within 10 days after the results are received. The notification shall provide a preliminary analysis of the cause and significance of the concentration.</p> <p>(18)</p>	
<p>ATCP 72.16 (2) (e) 2.</p>	<p>Recommend removing total coliform positive as a priority violation (change to Pf); Public Water Systems are permitted to still operate in certain scenarios for extended periods of time while DNR Level 2 Assessments are being conducted</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make the changes in the following sections.</p> <p>(e) <i>Private well water testing; bacteriological.</i> 1. The operator shall have bacteriological analysis performed for total coliform and <i>Escherichia coli</i> consistent with approved testing methods pursuant to s. ATCP 77.02 (3). ^{Pf}</p> <p>2. <i>Escherichia coli</i> analysis shall not exceed zero colony forming units pursuant to and s. NR 140.10. ^P</p> <p>3. Total coliform analysis shall not exceed zero colony forming units pursuant to and s. NR 140.20 (3). ^{Pf}</p> <p>(g) <i>Private well water testing; frequency, location, approved methods, and notification.</i></p> <p>1. The operator shall test the water from a private well at least once every 12 months. ^{Pf}</p> <p>2. The water sample shall be obtained from a faucet regularly used by tourists or transients.</p> <p>3. Private well water testing shall be performed by a Wisconsin department of natural resources drinking water certified laboratory.</p> <p>4. The operator shall notify the department or its agent when:</p> <p>a. The bacteriological test results for <i>Escherichia coli</i> exceed zero colony forming units as specified in par. (e) 2. ^P</p> <p>b. The bacteriological test results for total coliform exceed zero colony forming units as specified in par. (e) 3. ^{Pf}</p> <p>c. The nitrate test results exceed 10 mg/L as specified in par. (f) 2. ^P</p> <p>(h) <i>Unsafe potable water.</i> The operator shall:</p>

		<p>1. Prohibit the use of the entire private water system when bacteriological analysis under par. (e) 2. confirms the presence of <i>Escherichia coli</i>.^P</p> <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</p> <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) 4. and provide an approved water source as required under par. (i).^P</p> <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}</p>
ATCP 72.16 (2) (f),(g)	<p>Recommend nitrate testing follow the DNR recommendations for testing private wells of every 3-5 years for levels under 5 MG/L, annually for wells above 5 MG/L.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>In consultation with the Wisconsin department of natural resources, well operators are encouraged to test their wells annually for nitrate. Nitrate concentrations can fluctuate, sometimes widely, due to factors such as changes in climate and near-by land use.</p>
ATCP 72.16 (2) (f) 3.	<p>Should ch. ATCP 72 follow DNR public water systems for upper limits of nitrate contamination?</p> <p>(1),(4),(17),(18)</p>	<p>The Department agrees and proposes to make the change in the following section.</p> <p>After consultation with the Wisconsin department of natural resources, the action level for nitrate contamination will be levels in exceedance of 10 mg/L.</p> <p>(f) <i>Private well water testing; nitrates.</i> 1. The operator shall conduct nitrate analysis consistent with approved testing methods pursuant to s. NR 149.41.^{Pf}</p> <p>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</p> <p>3. If the analysis of the nitrate concentration in the well water exceeds 10 mg/L, it is considered</p>

		an unsafe potable water source and the operator shall follow the requirements under par. (h) 3. ^P
ATCP 72.16 (2) (f) 3.	We recommend changing the private well water nitrate threshold to 9.9 ppm or above and require bottled water for those testing above 9.9 ppm. (5)	<p>The Department agrees and proposes to make the change in the following section.</p> <p>After consultation with the Wisconsin department of natural resources, the action level for nitrate contamination will be levels in exceedance of 10 mg/L.</p> <p>(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}</p> <p>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</p> <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</p>
ATCP 72.16 (2) (g)	<p>Unnecessary Testing Mandates</p> <p>Many short-term rentals are homes rented seasonally or part-time. For hosts, the expectation of annual well water testing is burdensome, especially when the water system is properly maintained like a personal home and there are no known issues. Small business owners generally maintain their water systems, which don't require the same level of oversight as commercial properties.</p> <p>Well water testing can be costly, and these expenses can add up over time, placing a significant financial burden on short-term rental owners. Unlike large hotels or motels, which can absorb operational costs, many short-term rental owners manage just one or a few properties. For those renting occasionally, regular testing may be unreasonable, especially when water quality has been proven safe.</p>	<p>The Department proposes no change.</p> <p>Annual private well water testing for total coliform and nitrate ensures that the general public utilizing these lodging facilities are provided with a safe drinking water supply. The Wisconsin State Laboratory testing cost for total coliform and nitrate are \$35 each.</p> <p>An annual test for <i>Legionella</i> is not a requirement. <i>Legionella</i> testing would only occur as part of a water management plan that would be required if a facility has a confirmed waterborne outbreak where two or more cases developed Legionnaires disease.</p>

	<p>According to the Wisconsin State Laboratory of Hygiene, testing for <i>Legionella</i> costs \$130, with each required test—bacteriological, nitrate, and <i>Legionella</i>—further burdening short-term rental owners financially.</p> <p>(24)</p>	
<p>ATCP 72.16 (2) (g) 1.</p>	<p>Suggestion to change the water testing requirement to 12 months since the last inspection rather than once every 12 months or annually.</p> <p>(3), (19)</p>	<p>The Department agrees and proposes the following to provide clarification that sampling must occur within 12 months from the previous sample date.</p> <p>Water sampling is not tied to the date of the lodging inspection but is a requirement for the operator to sample at least once every 12 months to ensure they have safe water for use by the general public.</p> <p><i>(g) Private well water testing; frequency, location, approved methods, and notification.</i></p> <p>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</p> <p>Note: A private well sampled in March would have to be sampled again by March 31st the following year.</p>
<p>ATCP 72.16 (2) (g) 2.</p>	<p>Testing water from the source can be problematic and expensive; please provide alternatives.</p> <p>(14)</p>	<p>The Department agrees that many plumbing fixtures are now constructed of plastic and may be difficult to sanitize prior to sampling.</p> <p>The Department proposes additional clarification.</p> <p>2. The water sample shall be obtained from one of the following:</p> <ul style="list-style-type: none"> 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.

ATCP 72.16 (2) (g) 2.	<p>It is our recommendation that the Administrative Code describe how often water samples shall be collected if a sample is total coliform positive. The way the section is currently written it may be construed the lodging facility owner could continue to sample annually even though the previous sample was total coliform positive. If this is the intent, then we recommend the lodging facility be required to sample more frequently until the well water is total coliform negative. Although total coliform bacteria are not harmful, we are concerned a lodging facility could utilize a water source for three years that has conditions which are conducive to allowing other harmful bacteria to flourish.</p> <p>(5)</p>	<p>The Department agrees and has proposed the following changes for clarity on resampling frequency.</p> <p>(g) <i>Private well water testing; frequency, location, approved methods, and notification.</i></p> <p>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}</p> <p>Note: A private well sampled in March would have to be sampled again by March 31st the following year.</p> <p>a. Bacteriological test results for total coliform that exceed zero colony forming units shall be resampled at a frequency determined by the department.^{Pf}</p> <p>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}</p>
ATCP 72.16 (2) (g) 3.	<p>Substitute “analysis” for “testing” from this section.</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make the change in the following section.</p> <p>3. Private well water analysis shall be performed by a Wisconsin department of natural resources drinking water certified laboratory.</p>
ATCP 72.16 (2) (g) 3.	<p>Add DATCP as a "drinking water certified laboratory."</p> <p>(1),(4),(17),(18),(19)</p>	<p>The Department agrees and proposes to make the change in the following section.</p> <p>(g) <i>Private well water testing; frequency, location, approved methods, and notification.</i></p> <p>1. The operator shall test the water from a private well at least once every 12 months.^{Pf}</p> <p>2. The water sample shall be obtained from a faucet regularly used by tourists or transients.</p> <p>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.</p>

		<p>4. The operator shall notify the department or its agent when:</p> <p>a. The bacteriological test results for <i>Escherichia coli</i> exceed zero colony forming units as specified in par. (e) 2. ^P</p> <p>b. The bacteriological test results for total coliform exceed zero colony forming units as specified in par. (e) 3. ^{Pf}</p> <p>c. The nitrate test results exceed 10 mg/L as specified in par. (f) 2. ^P</p>
ATCP 72.16 (2) (h)	<p>Suggest adding requirement for operator to contract with a professional well chlorinator if they are unable to obtain safe water.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>In a situation where a private well system with a positive <i>E. coli</i> contamination, or three failed well samples for total coliform, the water supply is either prohibited from use or discontinued for use for food preparation and drinking water. These measures remain in place until safe water can be provided from the private water system.</p>
ATCP 72.16 (2) (i)	<p>Further explain allowances of a restricted-use water system.</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make the following changes for clarity and remove the word "restricted-use."</p> <p>(i) <i>Alternatives to a private water supply when the use is discontinued for food preparation and drinking water.</i> As required under subd. 2. and 3., water for food preparation and drinking shall be provided from any of the following sources:</p> <ol style="list-style-type: none"> 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
ATCP 72.16 (3) (c) 1.	<p>With respect to waterborne outbreaks:</p> <p>"implementing any of the following..." makes it sound like any of the options are viable. Point-of-use filters are not viable in all scenarios (e.g. cooling tower</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>(c) <i>Confirmed waterborne outbreak.</i> A lodging facility that has a waterborne illness outbreak, as</p>

	<p><i>Legionella</i>). Recommend deleting (b.) and (d.).</p> <p>(1),(4),(17)</p>	<p>confirmed through laboratory analysis, shall complete all of the following:</p> <p>1. Prevent continued exposure by implementing any of the following methods:</p> <p>a. Immediately discontinue public access to affected fixtures, equipment, and areas. ^P</p> <p>b. Install point of use water treatment filters, where applicable. ^P</p> <p>c. Other safeguards approved by the department. ^P</p> <p>d. A combination of subdpar. a., b., or c. ^P</p>
<p>ATCP 72.16 (3) (c) 6.</p>	<p>Within the administrative code, change the minimum standard for <i>Legionella</i> testing in named facilities from all <i>Legionella</i> species to <i>Legionella pneumophila</i>.</p> <p>(22)</p>	<p>The Department proposes no change.</p> <p>Aligns with Wisconsin department of health services standard operating procedure that any <i>Legionella</i> detection in the context of a Legionnaires disease public health investigation should be addressed and remediated. That approach has been supported by the U.S. centers for disease control and prevention's <i>Legionella</i> epidemiology team.</p> <p>It would be a departure from what is done at other facilities across the state, if remediation was only required for <i>Legionella pneumophila</i> at lodging facilities during public health investigations.</p>
<p>ATCP 72.16 (4) (c)</p>	<p>Include other air gap options as included with s. SPS 382.33 (7) (a).</p> <p>(1),(4),(17)</p>	<p>The Department agrees and proposes to make the change in the following section.</p> <p>(c) <i>Air gap</i>. When an air gap is required one of the following methods shall be used:</p> <p>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</p> <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</p> <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.</p>
<p>ATCP 72.17 (5) (f)</p>	<p>With respect to fall hazards and slip-resistant flooring in showers and bathtubs:</p>	<p>The Department proposes no change.</p>

	<p>What about previously licensed facilities that didn't need to meet this requirement? Are we going to require them to come into compliance with this change? Consider adding language about "existing facilities"</p> <p>(1),(4),(17)</p>	<p>There are many cost-effective options available to achieve compliance.</p> <p>Note: Examples of slip-resistant flooring or materials include grouted tile, anti-slip tape, bathmat, or textured surface.</p>
ATCP 72.18	<p>Having commercial and residential property requirements intermixed within this section is confusing. Could we separate out the requirements for smoke detectors, fire alarm systems, emergency egress, etc. into different subsections, one for Commercial properties and one for Residential properties?</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>The determination of whether a building is classified as a residential structure or a commercial structure is outside of the scope of ch. ATCP 72.</p> <p>For continuity, the Department consolidated fire safety issues into one section. Requirements specific to tourist rooming houses were noted in the rule language.</p>
ATCP 72.18	<p>Align with ch. SPS 321 definitions and codes to standardize guard height, spacing and stairs for safety in residential structures being used as lodging facilities.</p> <p>(17)</p>	<p>The Department proposes no changes.</p> <p>The Wisconsin department of safety and professional services, as indicated in s. ATCP 72.18 (1), is responsible for enforcement of building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300 to 399.</p> <p>The Department sets out specific health and safety thresholds for slips, trips, and falls outlined in s. ATCP 72.18 (2) which apply to all lodging facilities regardless of construction type and date of construction.</p>
ATCP 72.18	<p>Separate out requirements for TRH and commercial buildings.</p> <p>(19)</p>	<p>The Department proposes no change.</p> <p>The determination of whether a building is classified as a residential structure or a commercial structure is outside of the scope of ch. ATCP 72.</p> <p>Requirements specific to tourist rooming houses were noted in the rule language.</p>

<p>ATCP 72.18 (2)</p>	<p>Regulating sleeping rooms, bed placement, bunk beds, handrails, and exits for short-term rentals conflicts with the historical application of building codes to residential properties and instead places commercial lodging standards on homeowners and small businesses. These unnecessary regulations will only increase costs for short-term rental owners.</p> <p>(24)</p>	<p>The Department agrees in part and proposes the following.</p> <p>The Department did decrease the required aisle width from a bed to 2 feet which still allows ample room for egress from the sleeping room.</p> <p>(b) <i>Spacing and number of occupants in a sleeping room.</i> 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}</p> <p>The existing requirements for the number of occupants in a sleeping room was based on the occupants age, cubic air volume and ceiling height of the sleeping room. It was difficult to calculate for the department and industry. The proposed language simplifies this process, ensures safe egress, and results in similar occupancy numbers to the previous calculation methods.</p> <p>The Department is not responsible for determining applicable building codes for a given structure as that responsibility lies with the Wisconsin department of safety and professional services.</p> <p>The Department has developed health and safety standards with respect to slip, trip, and falls to ensure safe lodging experiences.</p>
<p>ATCP 72.18 (2) (b)</p>	<p>With respect to guard height and spacing:</p> <p>24 inches, not 30 inches guard height, reference SPS 321.04(3)(a)(2). Not 6 inches guard spacing, refer to SPS 321.04(3)(a)3.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>This does not impact meeting the requirements of Wisconsin department of safety and professional services building codes.</p> <p>The guard height and spacing requirement is a Department threshold for determining when a public health safety intervention is needed regardless of a building's classification or date of construction.</p>

<p>ATCP 72.18 (2) (b) 3.</p>	<p>You mention 6" between guards, what about the spacing between the bottom of the railing to the stair tread or where a deck may transition into a railing.</p> <p>(25)</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>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}</p> <p>4. The space between open risers on stairways shall be equal to or less than 6 inches. ^{Pf}</p> <p>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}</p> <p>6. Guard height shall be equal to or greater than 36 inches, except that guards may be less than 36 inches when terminating at the underside of the stair handrail under par. (a) 2. ^{Pf}</p>
<p>ATCP 72.18 (2) (b) 4.</p>	<p>DATCP's interpretation on guard height is 36". This language implies guard height can be as low as 30 inches in some situations. Recommend updating language to clarify guard height in all situations.</p> <p>Clarify guards may be less than 36" on a staircase only.</p> <p>(1),(4), (12), (17)</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>(b) <i>Guards.</i></p> <p>1. Guards shall be provided on all open sides of stairs consisting of more than 3 risers. ^{Pf}</p> <p>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}</p> <p>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}</p> <p>4. The space between open risers on stairways shall be equal to or less than 6 inches. ^{Pf}</p> <p>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}</p> <p>6. Guard height shall meet all of the following:</p>

		<p>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}</p> <p>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}</p>
ATCP 72.18 (3)	<p>Consider simplifying or clarifying the rule. There could be confusion over the excluded <5ft areas.</p> <p>(1),(4),(17)</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>(3) SLEEPING ROOMS. (a) <i>Ceiling height</i>. 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.</p>
ATCP 72.18 (3) (a)	<p>There must be a 7ft ceiling in sleeping rooms, how does this work for a loft?</p> <p>(6)</p>	<p>The Department proposes no change.</p> <p>If the loft peak ceiling height is less than 7 feet, then the loft cannot be used as a sleeping room.</p> <p>ATCP 72.18 (3) SLEEPING ROOMS. (a) <i>Ceiling height</i>. 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.</p>
ATCP 72.18 (3) (b)	<p>Address occupancy regarding sizing for private on-site wastewater systems (POWTS).</p> <p>(13)</p>	<p>The Department proposes no change.</p> <p>Occupancy in ch. ATCP 72 is directly related to bed size and means of exiting egress out of a sleeping room. POWTS size and capacity is under the regulatory authority of the Wisconsin</p>

		department of safety and professional services and local zoning departments.
ATCP 72.18 (3) (d) 4.	We would like to see clarification added to this section which details whether temporary guards meet this requirement or if the guards shall be permanently affixed to the bunk bed. (5)	The Department agrees and proposes to add additional language for clarity. 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}
ATCP 72.18 (4) (c)	In s. ATCP 72.18 (4) (c), it states “Exits from the second floor. 1. At least two exits shall be provided from the second floor.” A would like some clarification on how this would be implemented for structures such as A frame cabins, or a single-family home where an HOA type regulation/architectural control committee would prohibit such exits? (7)	The Department proposes no change. Any lodging facility that provides a sleeping room would be required to meet Wisconsin department of safety and professional services’ building code requirements for exiting. Conversion of an existing room into a sleeping room would be a change of use and exiting requirements would need to be met.
ATCP 72.18 (5) (b)	We do not think evacuation plans are necessary in tourist rooming houses as they may be a hinderance and add time to evacuating. (1),(4),(17)	The Department proposes no change. The proposed evacuation plans are not required to be posted and may be provided to guests upon check-in to a tourist rooming house. This provision allows the guests to review emergency evacuation from the premises in the event of an emergency.
ATCP 72.18 (7) (a)	Clarify when emergency lights are required. (1),(4),(17)	The Department proposes no change. Emergency light installation requirements are determined by Wisconsin department of safety and professional services building code. If emergency lighting is provided, the Department verifies that the fixtures are in working order and maintained in good repair.
ATCP 72.18 (9)	Clarify when fire alarms systems and fire extinguishers are required. (1),(4),(17)	The Department proposes no change. Fire alarm system and fire extinguisher installation requirements are determined by

		Wisconsin department of safety and professional services building code. If fire alarm systems or fire extinguishers are provided, the Department verifies that the fixtures are in working order and maintained.
ATCP 72.18 (9) (b)	Require at least one ABC rated fire extinguisher to be accessible for TRH's or specialty lodging units. (1),(4),(17),(18),(19)	The Department proposes no change. If fire extinguishers are provided, the Department verifies that the fire extinguishers are maintained. A fire extinguisher may be required locally through ordinance.
ATCP 72.18 (9) (b) 1.	If DATCP only recommends fire extinguishers for TRH, it should be removed. If it is included in the code, it should be a requirement, not a recommendation. (1),(4),(17)	The Department proposes no change. The department does not recommend, nor require fire extinguishers in tourist rooming houses. If fire extinguishers are provided, the Department verifies that the fire extinguishers are maintained. A fire extinguisher may be required locally through ordinance.
ATCP 72.18 (9) (b) 2. e.	Address carbon dioxide fire extinguishers which are not equipped with pressure gauges. (1),(4),(17)	The Department agrees clarification is needed and proposes to add additional language for clarity. e. Provided with a pressure gauge, except for carbon dioxide fire extinguishers. ^{Pf}
ATCP 72.18 (11)	I am a bit puzzled by the requirement to renew all smoke and or smoke/carbon monoxide detectors if they are over 10 years old and have malfunction indicators to let the lodging owner know they are defective. I am hoping some consideration of the more modern building codes and hard wire smoke/carbon monoxide detectors that buildings required to be brought up to the building code of the year they were restored in and extra costs associated with such can be incorporated. (10)	The Department proposes no change. Regardless of a smoke alarms features - battery powered or electrically powered with back-up battery- the alarms shall be replaced according to the manufacturer's specifications. The smoke alarm price point will vary based on the features of the alarm, whether is battery powered, electrically powered with back-up battery, electrically powered with Wi-Fi capabilities or wired or wireless interconnection. All of the alarms have a finite lifespan as determined by the manufacturer and are UL certified to detect smoke at the thresholds required by that standard.

ATCP 72.18 (11) (e)	<p>Why is this code section specifically calling out a 5-day compliance for smoke alarm replacement? Should that be codified?</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>Wis. Stat. 101.145 (3) (c) requires that the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.</p>
ATCP 72.18 (12)	<p>With respect to carbon monoxide alarms:</p> <p>The code language for this is confusing and will lead to disputes between operator and inspector. Please consider revising this to make it simpler.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>The proposed language is already simplified as it pertains to ch. ATCP 72 and is closely aligned to Wis. Stat. 101.149.</p>
ATCP 72.19 (3) (b)	<p>Suggest giving further guidance/definition of what types of hazardous substances must be restricted.</p> <p>(1),(4),(17)</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>(3) HAZARDOUS SUBSTANCES. (a) <i>Use.</i> 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</p> <p>(b) <i>Storage.</i> Chemicals, flammable materials, and other hazardous substances that can harm human health or the environment shall meet all of the following:</p> <ol style="list-style-type: none"> 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) <i>Disposal</i> . 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 660 to 670, as enforced by the Wisconsin department of natural resources. ^{Pf}
ATCP 72.20	<p>Costly Maintenance, Installation and Building Code Requirements</p> <p>ATCP 72.20, which sets requirements for furnishings, equipment, and utensils, imposes burdensome regulations on short-term rentals. These rentals offer guests home-like amenities, providing a more affordable, relaxed stay. Short-term rentals often provide self-check-in, flexible check-in/out times, laundry facilities, and pet accommodations. Unlike large-scale commercial hotel and motel operations, short-term rentals typically don't have full-time staff or regular cleaning services; owners manage cleaning and maintenance themselves or rely on third-party services. Requiring "easily cleanable" materials undermines this appeal, and mandating sanitation signage detracts from the guest experience. Moreover, the rule requires short-term rentals to provide soap, hand towels, toilet paper, waste receptacles, and slip-resistant flooring in bathtubs, limiting both the owner's and visitor's ability to choose their amenities. This goes beyond the role of the state by imposing obligations that should be determined by the owner.</p> <p>(24)</p>	<p>The Department proposes no changes.</p> <p>Pursuant to s. 97.62, Stats., a lodging facility shall be operated and maintained with a strict regard to public health and safety.</p> <p>ATCP 72.19 and 72.20 lay the foundation for the minimum requirements to protect public health and safety and meet the department's statutory obligations.</p> <p>These minimal health and safety standards aim to protect Wisconsin's lodging industry and the Wisconsin brand so that tourist and transients experience safe, clean, and maintained accommodations when they lodge in the state of Wisconsin.</p>
ATCP 72.20 (4) (b)	With respect to jetted, fill and drain bathtubs.	The Department agrees clarification is needed and proposes to add additional language for clarity.

	<p>Please include instructions in this section describing the proper way to sanitize these bathtubs.</p> <p>(5)</p>	<p>(b) <i>Jetted, fill and drain bathtubs.</i> If a lodging facility is equipped with a jetted, fill and drain bathtub, then the operator shall follow the manufacturer's cleaning and sanitization procedures and demonstrate knowledge regarding those procedures. Cleaning and sanitization procedures shall occur between each guest stay. ^{Pf}</p>
ATCP 72.20 (6)	<p>With respect to warewashing:</p> <p>What about common area dishes (residence hall shared kitchens, hostel kitchens, etc.)?</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>In a shared kitchen or in a hostel, the responsibility for cleaning and sanitizing utensils is the responsibility of the operator or delegated to the guest through written communications.</p>
ATCP 72.20 (6)	<p>With respect to warewashing:</p> <p>Recommend adding: Warewashing areas should have a properly maintained and supplied handwashing sink.</p> <p>(1),(4),(17),(18)</p>	<p>The Department proposes no change.</p> <p>In a lodging facility, handwashing is acceptable in the warewashing sink, no designated handwashing sink is required.</p>
ATCP 72.20 (6)	<p>With respect to ice bucket maintenance:</p> <p>Why is spray sanitizer directly called out here? Can't a facility utilize a food contact spray sanitizer for other items as well? Is the point that they don't need to be washed with detergent and rinsed?</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>A spray sanitizer is mentioned because the disposable liner in the ice bucket becomes the food contact surface and the ice bucket does not need to be washed, rinsed, and sanitized between each use.</p>
ATCP 72.20 (8) (a)	<p>Recommend change to "...once every seven days for extended guest stays"</p> <p>(1),(4),(17)</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>(a) <i>Cleaned between guests.</i> 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.</p>
ATCP 72.20 (8) (d)	<p>It seems the requirement for a mattress pad has been modified to a mattress protector. Is there a definition for mattress protector or nonabsorbent? Is a mattress</p>	<p>The Department proposes no change.</p>

	<p>pad still required? Does a mattress pad still meet the new code requirement? If not, this will require a lot of facilities to order hundreds of mattress protectors. Is there an economic impact worth considering here? Enforcement timelines etc.. It is only a core violation though so we would give 3 years to correct. Some additional information regarding enforcement would be helpful.</p> <p>(1),(4),(17)</p>	<p>A mattress protector is a broader term used to describe a mattress covering. A mattress pad is a type of mattress protector.</p>
ATCP 72.22	<p>Are these truly permissible? Reportable communicable diseases in ch. DHS 145 include sexually transmitted infections, metal poisoning, etc. Recommend pointing to WI Food Code or public school illness guidelines instead of blanket “communicable disease”.</p> <p>https://docs.legis.wisconsin.gov/code/admin_code/dhs/110/145_a.pdf</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>This was already addressed in the rulemaking process to focus on food or waterborne communicable diseases.</p>
ATCP 72.22 (4)	<p>With respect to employee health:</p> <p>Recommend adding “shall have written procedures”</p> <p>(1),(4),(17)</p>	<p>The Department agrees clarification is needed and proposes to add additional language for clarity.</p> <p>(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}</p>
ATCP 72.25	<p>Given these challenges and unacceptable risks, we strongly oppose the inclusion of the EMS reporting requirement. If eliminating this requirement isn't feasible, and if DATCP's primary goal is to collect data on specific hazards, we propose a simpler solution: whenever an EMS call is made by a hotel, it should be reported through a straightforward form, with input from the industry in its creation. DATCP</p>	<p>The Department agrees and proposes the following for clarification.</p> <p>ATCP 72.25 Death, injury, or illness reports. The licensee or their designee shall provide a report on a department form after an incident that results in death, injury, or food, waterborne or other communicable illness where an emergency medical service response is initiated by the operator. The report shall be filed with the</p>

	<p>could then determine what follow-up actions are necessary and how to organize the data to track relevant metrics.</p> <p>(21)</p>	<p>department or its agent within 2 business days or as soon as practicable following the incident.</p> <p>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.</p>
ATCP 72.26 (1)	<p>Closing Criteria. Remove the section that states “or areas of a lodging facility where an imminent health hazard is present, including:”</p> <p>This section makes it sound like we are changing the definition of an imminent health hazard to include all of the below – which includes bed bugs. It would be better to leave off the imminent health hazard statement at the beginning and instead add it to (h).</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>All items identified in this section are imminent health hazards to include a lack of pest control. Per U.S. centers for disease control and prevention, bed bugs have not been shown to transmit disease, they do cause a variety of negative physical health, mental health and economic consequences</p>
ATCP 72.26 (1) (d)	<p>Fire Alarms: if non-compliance needs to be determined by the fire department/marshal, we believe the fire department would hold the authority to close the establishment at their discretion and it should not be closing criteria in our code.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>If the fire alarm system is deemed in noncompliance and closure orders are issued by the fire department, building inspection personnel, State fire marshal, or the Wisconsin department of safety and professionals services, the department considers this an immediate danger to health and the facility should not be opened to the general public until compliance is achieved.</p>
ATCP 72.26 (1) (e)	<p>CO detectors and Smoke detectors are currently reinspection criteria with a 5-day follow-up. Our opinion is that this system is sufficient in some instances to ensure compliance rather than immediate closure.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>This section refers to the absence of smoke and carbon monoxide alarms. These devices warn guests of unsafe conditions and failure to have a smoke or carbon monoxide alarm devices could lead to unsafe circumstances.</p>
ATCP 72.27	<p>I don't see an exception for specialty lodging that it doesn't have to be built to building code.</p> <p>(6)</p>	<p>The Department proposes no change.</p> <p>ATCP 72.27 indicates in addition to the requirements under this subchapter, all the</p>

		<p>requirements under ch. ATCP 72 apply to specialty lodging.</p> <p>Specialty lodging facilities are required to meet s. ATCP 72.18 regarding building structure and safety.</p> <p>ATCP 72.18 Building structure and safety. (1) GENERAL. (a) <i>Wisconsin building code.</i> 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.</p>
ATCP 72.28	<p>Prohibitions – Allow specialty lodging to have a microwave oven AND a coffee pot if potable water is provided onsite.</p> <p>(1),(4),(17)</p>	<p>The Department proposes no change.</p> <p>The use of a coffee pot may require cleaning and maintenance that is best done in a plumbed warewashing sink.</p>
ATCP 72.28	<p>Specialty lodging can't have food equipment and sinks. I know some cabins just have a sink and mini fridge and microwave. Why is a sink not allowed without a toilet?</p> <p>(6)</p>	<p>The Department proposes no change.</p> <p>Camping cabins are regulated under chs. ATCP 79 and SPS 327 which differ from the proposed specialty lodging facility and requirements in ch. ATCP 72.</p> <p>(88) “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.</p> <p>If plumbing fixtures are provided, then it is considered a tourist rooming house and must meet the plumbing requirements in s. ATCP 72.16 (4).</p>

Response to Legislative Council Staff Recommendations

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

Clearinghouse Comment	Department Response
5.x. Should the appeal procedure in s. ATCP 72.10 match the appeal procedure in s. ATCP 72.11 (2), or are these two different types of appeals? For instance, the former imposes a deadline of 10 calendar days, but the latter uses a deadline of 15 calendar days and requires the request for a hearing to be in writing.	The Department proposes no change. These are two different statutes and requirements.
5.aa. In s. ATCP 72.14 (7), it appears that the word “and” should be revised to “or”.	The Department proposes no change. “And” is the appropriate word as these are meant to be inclusive.

Report from the SBRRB and Final Regulatory Flexibility Analysis

This rule does not have an impact on small businesses. The Final Regulatory Flexibility Analysis is attached.