

**ORDER OF THE WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT**

The Wisconsin Department of Workforce Development (Department) adopts the following rule **to repeal** DWD 301.04 (1), 301.05 (3), (7) and (9), 301.06 (5) to (7), (12) (b) and (16), 301.07 (5) (title), (6) (e), (7) (c) (Note), (9) (a) 2. a. and 2. b., (c), (e) and (Note), (11) (a) 1., (15) (m), (16) (q), (17) (a) 3. and (b) 3. and (21) (em) 4., (j) and (k), 301.08 (7), 301.09 (intro.), (2) (b) and (c), (4) (d), (6) (title), (c), (d) and (f) and (7) (d) and 301.13 (4); **to renumber** 301.07 (5) (a) and (c) and (11) (f) 1. and 301.09 (3) (title), (4) (title) and (6) (e); **to renumber and amend** DWD 301.04 (2), 301.05 (4), (5), (6) and (8) (b), 301.06 (2), (2m), (8), (9), (10), and (12) (a), 301.07 (3), (5) (b) and (d), (6) (a) and (Note), (8) (f) 1., 2. and 3., (9) (a) (intro.), 1. and 2. (intro.), (11) (a), (15) (d), (21) (i) and (23) (a), 301.08 (5), 301.09 (1), (2) (title) and (a), (3), (4) (a), (b) and (c), (5) and (6) (a) and (b) and 301.13 (1) (Note); **to consolidate, renumber, and amend** DWD 301.05 (1) and (2), 301.06 (3) and (4), 301.07 (6) (c) and (d) and (16) (L) and (o) and 301.13 (3) (a) and (b); **to amend** DWD 301.05 (8) (intro.), (a), (c), (d) and (e), 301.06 (title), (11), (14) and (15), 301.07 (1) (a) and (c) to (f), (2), (4), (6) (b) (intro.), 2. and 3. and (f), (7) (a), (b) and (c), (8) (c) to (e), (9) (d), (10) (a) and (b), (11) (a) 3., (b), (c) (intro.), (d) and (3), (i), (12), (13) (a), (c), (g) and (h), (14) (b), (d) and (h), (15) (a), (c), (d) 1. and 2., (e), (f) and (h), (16) (a) to (d), (f), (i) to (k) and (p), (17) (a) (intro.) 1. and 4., (b) (intro.) and 7., (d) (intro.) 1., 7., 8., 16. and 19., (18) (a), (b) and (d), (20) (e), (21) (title), (b), (c), (e), (em) 1. (intro.), 1. a. and 2., (f) and (h), (22) (a), (b) and (c) (intro.) 1., 2. and 4., (23) (b), (24), 301.08 (1), (2), (3), (6), 301.09 (7) (a), (b) and (c), 301.13 (1) and (2) and 301.14; **to repeal and recreate** DWD 301.03, 301.04 (title), 301.07 (1) (title), (11) (a) 2., 301.13 (5) and 301.14 (Note); and **to create** DWD 301.015 (title), (intro.) and (Note), (1), (2), (5) to (8), (9) (Note), (11) (Note), (12), (15) and (Note), (16) to (18), (21) (Note), (25) and (26), 301.03 (Note), 301.05 (1) (title), (a) (Note), (b) and (Note) and (c), (8) (title), (am) and (d) (Note), 301.06 (1e), (3m) and (8) (b) and (d), 301.07 (1) (a) (Note), (ag), (ar) (Note), (aw) and (Note) and (g), (1m) (Note), (2) (Note), (6) (ag), (8) (bm), (9) (ag), (f) and (g), (16) (r), (17) (a) 3m. and 7., (b) 3m., (d) 7. (Note) and 8. (Note), (20) (bm) and (dm), (21) (i) 1. to 19. and (23) (a) 1. and 2., 301.075, 301.08 (1) (Note), (2) (Note) and (5) (b), 301.09 (1m) (title) and (a), (2m) (title) and (a), (d) and (e) and 301.135, relating to migrant labor and affecting small business.

The statement of scope for this rule, SS 004-22, was approved by the Governor on January 13, 2022, published in the Wisconsin Administrative Register No. 793A3 on January 18, 2022, and approved by the Secretary of the Department of Workforce Development on April 15, 2022.

Analysis Prepared by the Department of Workforce Development

Statutes interpreted

Sections 103.90 to 103.97, Stats.

Statutory authority

Section 103.905 (1), Stats.

Explanation of statutory authority

Section 103.905 (1), Stats., requires the Department to promulgate rules "for the enforcement and implementation of ss. 103.90 to 103.97," Stats., which is the Wisconsin Migrant Labor Law. This authority includes ensuring that migrant labor camps, transportation, and field work are safe for workers.

Related statutes or rules

None.

Plain language analysis

Current ch. DWD 301 includes requirements for all of the following: 1) certification of migrant labor contractors; 2) migrant labor work agreements; 3) certification of migrant labor camps; 4) migrant labor camp standards; 5) payment of wages to migrant workers; 6) field sanitation standards; 7) assessment of penalties for violations of the chapter; and 8) notice of migrant labor rights. The Department has made no substantive revisions to the chapter since Clearinghouse Rule CR 07-018 went into effect on January 1, 2008. This rule revises current ch. DWD 301 as follows:

Definitions. The rule creates one section that sets forth definitions that are interspersed throughout the current chapter. The rule also creates definitions for previously undefined terms.

Some of the definitions apply to terms used in the Migrant Labor Law but not in the chapter. For those definitions, notes are provided that cite the relevant statutory provisions in the Migrant Labor Law.

Migrant labor contractors. The rule establishes timelines for the Department to make decisions on applications for annual certificates of registration as a migrant labor contractor. As under the current chapter, the rule requires the Department to make a decision within 20 working days after receiving an application, except that the rule allows that deadline to be extended in order to determine whether an applicant is ineligible under current statutory law due to delinquencies in child or family support, taxes, or unemployment insurance contributions. The rule does not affect the \$100 application fee required under the current chapter. The rule also clarifies the appeals process for Department actions regarding the certificates.

Migrant labor work agreements. The rule consolidates in one section the items required to be included in a work agreement. The rule provides that workers who are required to isolate due to disease under the rule (see below) are considered available for work for purposes of the minimum work guarantee that must be included in work agreement under s. 103.915 (4) (b), Stats. That statute allows an employer to reduce the minimum work guarantee based on unavailability to work. Because an isolated worker is considered available for work under the rule, an employer may not reduce the minimum work guarantee based on the period of isolation. The rule makes other changes that clarify how to determine the time period covered by the minimum work guarantee. In addition, the rule clarifies electronic signature requirements in accordance with ch. 137, Stats.

Migrant labor camps. The rule updates requirements for migrant labor camps as follows:

The rule clarifies the deadline for the Department to make determinations on applications for annual certificates to operate a migrant labor camp. As under the current rule, the deadline is based on the date that an application is received and the date that a migrant labor camp is inspected. The rule has the effect of potentially lengthening the deadline by 10 days. The rule also establishes a \$100 application fee. Under the current chapter, the fee is \$50, except that the fee is \$100 for applications made after March 31.

When a migrant labor camp operator annually applies for a certificate to operate a migrant labor camp, the rule requires the operator to submit to the Department documentation from local fire departments confirming that property meets local and state fire codes. This requirement clarifies how the Department verifies compliance with those codes. The rule also requires an operator to submit written procedures for the temporary isolation of sick or injured occupants of migrant labor camps.

The rule aligns water testing requirements required under the current chapter with rules of the Department of Natural Resources (DNR), including testing and posting requirements for total nitrate nitrite levels. See s. NR 809.11 (2) and (3). If maximum contaminant levels are exceeded, the rule requires a migrant labor camp operator to demonstrate to the Department's satisfaction that the operator has complied with those DNR rules. The rule also clarifies that if a migrant labor camp is regulated as a public water system under DNR rules, the camp must comply with both DNR's rules and the Department's rules. In addition, the rule requires a migrant labor camp operator to submit to the Department any well construction reports that the migrant labor camp operator is required to submit to DNR. DNR's rules are referenced to clarify their application to migrant labor camp operators.

The rule creates the following new requirements, which align with requirements of other state and federal agencies:

- Food preparation areas and sleeping quarters must be 500 feet from livestock. This requirement is consistent with regulations of the federal Occupational Safety and Health Administration (OSHA). See 29 CFR 1910.142 (a) (2).
- Mobile home units must be at least 10 feet from streets, in addition to at least 10 feet from other buildings and property lines as required under the current rule. This requirement is consistent with rules of the Department of Safety and Professional Services (DSPA). See s. SPS 326.12 (1) (c) 3.
- The rule increases total openable window area from 45% to 50%. This requirement is consistent with OSHA regulations. See 29 CFR 1910.142 (b) (7).
- Ratios of urinals and showers to camp occupants are reduced in accordance with OSHA and DSPA requirements. See 29 CFR 1910.142 (d) (6) and s. SPS 362.2902 (1).
- The rule requires guardrails for bunk beds. This requirement is consistent with regulations of the federal Consumer Product Safety Commission. See 16 CFR 1213.3 (a).
- First aid kits must include specified items based on OSHA's recommendation that a generic first aid kit containing items described in American National Standard (ANSI) Z308.1-1998 should be adequate for small worksites. See Appendix A to 29 CFR 1910.151. In addition to those items, the rule requires first aid kits to include face masks.
- The rule aligns notice requirements for pesticide applications with rules of the Department of Agriculture, Trade and Consumer Protection (DATCP). See s. ATCP 29.51 (2).

The rule also does the following:

- The rule clarifies when camp operators must submit plans to the Department for new construction, additions, or alterations.

- The rule clarifies the period allowed for migrant labor camp operators to correct violations before the Department may revoke a certificate to operate the camp.
- The rule requires washers and dryers to be provided in the ratio of one per 20 migrant labor camp occupants. The current chapter does not address dryers and requires washers to be provided in the ratio of one per 30 migrant labor camp occupants.
- The rule requires refrigerators to be maintained at 40 degrees Fahrenheit or lower, instead of 45 degrees as required under the current rule. The rule also requires freezers maintained at zero degrees Fahrenheit or lower.
- The rule requires screening for windows and doors used for ventilation, instead of for all outside openings as required under the current chapter.
- The rule requires a migrant labor camp operator to post the certificate to operate the migrant labor camp in a conspicuous place in the camp.

Disease and illness prevention. The rule creates new requirements for disease and illness prevention in migrant labor camps. The rule requires certain diseases and symptoms to be reported to local health officials. These requirements are consistent with existing OSHA regulations and rules of the Department of Health Services (DHS), and are referenced in the rule to ensure migrant labor camp operators are aware of their obligations under those rules. See DHS s. 145.04 (3) and 29 CFR 1910.142 (l). The rule also prohibits individuals with communicable diseases from preparing or serving food in migrant labor camps, which is consistent with OSHA regulations. See 29 CFR 1910.142 (i) (3). In addition, migrant labor camp operators must establish procedures for isolating sick workers and provide space for isolation when isolation is required. This requirement is similar to DATCP rules for summer camps. See ATCP 78.19 (3). Also, persons reasonably suspected of having a communicable disease must be isolated for the amount of time recommended by public health authorities.

Field sanitation. The rule clarifies that toilet and handwashing facility requirements apply to operations in which 6 or more migrant workers are engaged in field work. The rule creates the following requirements that apply to operations in which any number of migrant workers are engaged in field work:

- One quart of water per worker per hour for drinking must be provided in accordance with heat illness prevention guidelines of the National Institute for Occupational Safety and Health of the Centers for Disease Control.
- Employers must train workers and supervisors to monitor for heat illnesses and establish a heat illness prevention plan that includes ensuring effective communication during an emergency in the field.
- Employers must provide shade and the opportunity to take breaks when temperatures exceed 80 degrees Fahrenheit.

As under the current chapter, the rule allows a migrant labor camp operator to request a variance from field sanitation requirements but eliminates a procedure for contesting the Department's determination on the request. This elimination makes the variances consistent with variances from migrant labor camp requirements. The current chapter allows a migrant labor camp operator to request a variance from

migrant labor camp requirements but does not include a procedure for contesting the Department's determination.

Assessment of penalties. The rule does not affect the Department's authority to administratively assess penalties based on whether a violation is high, medium, or low severity. The rule also does not affect the maximum amount of the penalties. The rule does eliminate the current chapter's examples of high, medium, and low severity penalties. The Department has determined that the examples are not necessary based on the Department's statutory authority.

Hearings. The rule creates procedures for hearings on denial of migrant labor contractor certifications, migrant labor camp certificates, and administratively assessed penalties.

Summary of, and comparison with, existing or proposed federal regulations

Federal regulations on migrant recruitment, migrant work agreements, payroll records, and provision of other information to migrant workers are found at 29 CFR Part 500. These regulations require each agricultural employer that employs migrant workers to post in a conspicuous place at the place of employment a poster provided by the U.S. Department of Labor (DOL) that sets out the rights and protections for workers under the Migrant and Seasonal Agricultural Worker Protection Act, 29 USC 1801 et seq. The regulations establish standards for those applying for certification to act as farm labor contractors. These regulations require that individuals recruiting migrant workers make written disclosures of certain information about the offered employment, provide itemized wage statements for each worker. These regulations establish requirements for vehicle safety for the transportation of migrant and seasonal agricultural workers, and for their housing standards.

Owners of migrant worker housing constructed before April 3, 1980, may elect to comply with OSHA regulations at 29 CFR 1910.142 or Employment Training Administration (ETA) regulations at 20 CFR 654.400 et. seq. Migrant worker housing constructed on or after April 3, 1980, must comply with OSHA regulations at 29 CFR 1910.142. The OSHA temporary labor camp standards include requirements for living quarters, toilet facilities, laundry and bathing facilities, construction of kitchens and feeding facilities, first aid, first aid, and reporting communicable diseases.

Any agricultural establishment where eleven or more employees are engaged in hand-labor operations in the field are subject to OSHA's field sanitation standards at 29 CFR 1928.110. These standards include a requirement that one toilet and one handwashing facility be provided for every 20 employees, and that those facilities are to be located within a one-quarter mile walk of each hand laborer's place of work. Suitably cool water in sufficient amounts is also to be provided, and workers are to be given opportunities for reasonable use of water and facilities. Chapter 301 has the same requirements for the provision of toilet and handwashing facilities, but the current rule requires that these be provided for operations with six or more workers. In the proposed rule, which would apply to all operations, the amount of water to be provided per worker is specified, in accordance with CDC-NIOSH guidance. The proposed rule requires employers provide shade and the opportunity to take breaks when temperatures exceed 80 degrees Fahrenheit to workers engaged in hand labor.

The H-2A Temporary Agricultural Program allows agricultural employers to bring non-immigrant foreign workers to the U.S. to perform temporary or seasonal agricultural labor or services. Most workers who come to the state under the H-2A program meet the definition of a "migrant worker" under s. 103.90(5), and as such, the requirements of Wis. Stat. s. 103.90 et seq. and DWD ch. 301 apply to H-2A workers. Under the federal regulations for H-2A workers, employers must provide housing to H-2A workers that meets either the OSHA or the ETA housing standards, whichever is applicable.

Summary of comments on the statement of scope and description of how the comments were taken into account in drafting the rule

A preliminary hearing on the Statement of Scope for this rule, SS 004-22, was held on April 12, 2022. At the preliminary hearing, the president of the Midwest Food Products Association (MWFPA) acknowledged the Department for collaborating with workers, worker advocates, and employers on an emergency rule establishing COVID-19 protections for migrant workers (EmR2204) and looked forward to similar collaboration on this rule. Regarding disease and illness prevention, the MWFPA president expressed concern that, if this rule specifically addresses one strain of COVID-19, the rule might need frequent revisions to deal with new strains. In addition, the MWFPA president recognized the potential need for updating ch. DWD. The MWFPA president also provided the foregoing comments in writing.

The executive director of the Wisconsin Potato & Vegetable Growers Association (WPVGA) submitted written comments urging the Department "to make necessary revisions to DWD 301 to align state standards with federal law related to insurance requirements for motor vehicles used to transport migrant workers." The executive director stated that the WPVGA supported consistency with federal law instead of more stringent state insurance requirements. The executive director commented that workforce shortages are exacerbated because some migrant labor contractors no longer operate in Wisconsin due to inconsistencies between the state and federal insurance requirements.

At the preliminary hearing, a migrant labor contractor made comments similar to WPVGA's comments about insurance. The contractor supported consistency between the state and federal requirements because the insurance required to comply with the state requirements is more expensive than the federally required insurance. The contractor stated that the high insurance cost imposes a financial strain on contractors who may respond by avoiding or limiting their business in the state, which would negatively affect local economies that benefit from the presence of migrant workers.

Agency response: The Department appreciates the MWFPA president's comment on collaboration and notes that, in drafting the rule, the Department collaborated with the Ad Hoc Committee on Migrant Seasonal Farmworkers established by the Governor's Council on Migrant Labor. The Governor's Council on Migrant Labor consists of six representatives of employers of migrant workers and six representatives of migrant workers and their organizations, in addition to two members of the senate and two members of the assembly who are equally divided between the two major political parties. Section 15.227 (8), Stats. The council reviews rules submitted by the Department, and if the council disproves the rule, the department may not promulgate it. Section 103.968, Stats. The ad hoc committee's members represent the interests of employers and migrant workers. As for the comment about COVID-19 strains, while a now-expired emergency rule did specifically pertain to COVID-19, this rule's requirements for preventing and controlling disease and illness apply more broadly to communicable diseases as defined by the DHS.

The Department also considered the request to adopt federal standards for vehicle liability insurance in response to the WPVGA and the migrant labor contractor. Under the federal standards cited by the commenters, 29 CFR 500.122, if an employer provides worker's compensation coverage and the worker is only transported under circumstances for which there is workers' compensation coverage under state law, no additional vehicle liability insurance policy or bond is required. Further, under the federal regulation, if the employer provides transportation of the worker that is not covered by the state's worker's compensation law, a liability insurance policy or liability bond shall be required for those circumstances. Wisconsin's worker's compensation law would not cover workers being transported prior to the start of or after the completion of their period of employment, or in situations when the transportation is not compulsory for work, such as getting a ride to buy groceries. Yet, contractors in Wisconsin frequently provide such transportation for migrant workers. If the federal standards were adopted, contractors would likely still be required to obtain a liability insurance policy or liability bond for transit in these

circumstances since this is not covered by Wisconsin's worker's compensation law. Because adopting this federal standard would not entirely relieve contractors of the obligation to obtain a liability insurance policy or liability bond without altering the customary transportation offered to migrant workers, the Department is declining to make this change.

Comparison with rules in adjacent states

Illinois. A statute called the Illinois Migrant Labor Law requires operators of migrant labor camps to obtain annual licenses from the Department of Public Health, except that no license is required for camps that provide housing for fewer than 10 migrant workers or 4 families. However, the exempt camps must comply with the other requirements under the law. 210 Illinois Compiled Statutes (ILCS) 110/3. The law establishes hearing procedures that apply to denial, suspension, and revocation of the licenses. 210 ILCS 110/12. The law also allows the department to issue conditional licenses for migrant labor camps that do not comply with the law's requirements. However, a conditional license must require violations to be corrected within no more than 3 years and no more than 3 consecutive conditional licenses can be issued for a migrant labor camp. 210 ILCS 110/7. The law also requires the department to approve camp construction, alteration, or expansion and requires the department to inspect camps. 210 ILCS 110/8 and 110/9.1. If necessary to protect public health in an emergency, the law allows the department to order the immediate closure of a migrant labor 210 ILCS 110/15. Also, the law allows a migrant worker who is aggrieved by a violation to file an action in state court to enforce the law. 210 ILCS 110/16. In addition, the law allows the department to promulgate rules to carry out the law's purposes and establish administrative penalties and sanctions. 210 ILCS 110/10 and 110/11. The department has promulgated rules establishing administrative fines. See 77 Ill. Admin. Code s. 935.15. Under the Migrant Labor Law, a violation that may lead to serious injury or death of employees or the public is a misdemeanor that is subject to a \$250 penalty for each day of violation. 210 ILCS 110/25.

Pursuant to the Migrant Labor Law, the department has promulgated rules imposing requirements for the following: camp construction and alteration permits; camp sites and structures, including requirements for sleeping rooms, bedding, and ventilation; water supply; sewage and solid waste disposal; toilet, handwashing, and laundry facilities; showers; food preparation; food storage and eating facilities; electrical wiring; mechanical equipment; fire protection; and communicable disease reporting. 77 Ill. Admin. Code ss. 935.10 to 935.105. In addition, the rules allow the department to grant variances. 77 Ill. Admin. Code s. 935.120. The rules also impose deadlines for the department's investigation of complaints. 77 Ill. Admin. Code s. 935.130.

Iowa. Most of Iowa's requirements for migrant labor camps and migrant labor contractors are statutory. A person cannot operate a migrant labor camp without an annual permit issued by the Iowa Department of Public Health. Iowa Code Annotated (ICA) s. 138.2. The department may issue variances from the requirement and must also give a reasonable time to correct violations. ICA ss. 138.6 and 138.12. The Iowa statutes specify requirements for all of the following: migrant labor camp sites; shelters, including living quarters and sleeping facilities; water supply; toilet, sewage, laundry, handwashing, and bathing facilities; lighting; refuse disposal; insect and rodent control; construction and operation of kitchens, dining halls, and feeding facilities; and safety and fire prevention. ICA s. 138.13. In addition, migrant labor camp operators must report communicable diseases and certain illnesses to local health authorities. ICA s. 138.14. A migrant labor camp operator must give prior notice to the department before constructing or altering the camp. However, department approval is not required. ICA s. 138.15. The statutes also impose cleanliness duties on migrant labor camp occupants and repair duties on camp operators. ICA s.138.16. In addition, before contracting with a migrant worker, a migrant camp operator must disclose any rental charges or other deductions for the provision of camp facilities. ICA s. 138.17. As for rules, the department has promulgated rules on shelters, water supply, waste disposal, bathing facilities, central dining facilities, and safety and fire. Iowa Admin. Code 641.81.1 to 641-81.6. The

department enforces the statutes and rules and violations are subject to misdemeanor penalties. ICA s. 138.19. In 2022, the department's duties were transferred to a new Department of Health and Human Services.

Michigan. Michigan statutes impose requirements for agricultural labor camps, which are defined as migrant labor camps with living quarters for 5 or more migrant workers. Michigan Compiled Laws Annotated (MCLA) s. 333.12401 (b). Operators of those camps must obtain an annual license from the Department of Agriculture and Rural Development and give notice to the department before constructing, altering, or enlarging a camp. MCLA ss. 333.12411 (1) and (2) and 333.12413 (1). The department is allowed to issue temporary licenses for no more than 3 months pending the correction of violations, but no more than 2 conditional licenses can be issued for the same violation. MCLA s. 333.12414 (1). The statutes include requirements for hearings on the department's denial, suspension, or revocation of a license. MCLA ss. 333.12415 and 333.12416. In addition, the statutes allow the department to promulgate rules to protect the health, safety, and welfare of migrant workers and camp occupants. MCLA s. 333.12421 (1). The department is required to enforce the statutes and rules and allowed to inspect camps. MCLA s. 333.12425. Violations of the statutes and rules are subject to misdemeanor penalties. MCLA s. 333.12434.

Rules to administer the statutes were originally promulgated by the Department of Health and Human Services. In an executive reorganization in 2017, the rules were transferred to the Department of Agriculture and Rural Development. MCLA s. 333.26254. The rules authorize the department to grant exemptions from the rules, which is like the authority in other states to issue variances. Mich. Admin. Code R. 325.3605 (2) and (3). The rules impose requirements on agricultural labor camps for the following: camp operator and occupant responsibilities; camp location; recreational space; worker's pets; water supply; camp structures, including sleeping and storage areas, living unit partitions, and bed space; fire safety; first aid; ventilation; lighting; electricity; heating; cooking, eating, and refrigeration facilities; bathing, handwashing, laundry, and toilet facilities; sewage, garbage, and refuse disposal; vermin; and winter occupancy. Mich. Admin. Code R. 325.3609 to 325.3629. Also, if a camp operator allows migrant workers to live in recreational vehicles at the camp, the camp operator must supply water, toilet and shower facilities, electrical service, and refuse containers to those migrant workers. Mich. Admin. Code R. 325.3605 (4).

Minnesota. Minnesota statutes allow the commissioner of the Department of Health to promulgate rules regarding construction, equipment, maintenance, and sanitary conditions of migrant labor camps. Minn. Stats. s. 144.12 (11). However, no such rules are currently in effect. In a migrant worker website, the Department of Employment and Economic Development advises farm labor contractors to register with the DOL and notes that the DOL's Wage and Hour Division enforces the MSPA. The website also describes the role of the state Job Service in recording complaints about violations of OSHA's field sanitation requirements and referring the complaints to ETA, which assists OSHA in enforcing the requirements.

Summary of factual data and analytical methodologies

In developing this rule, the Department reviewed ch. DWD 301, the Migrant Labor Law, OSHA regulations, and federal regulations on migrant recruitment, migrant work agreements, payroll records, and provision of other information to migrant workers. The Department also reviewed migrant worker agreements and other records relating migrant labor contractors and migrant labor camps submitted to the Department in the course of the Department's duties in regulating migrant labor contractors and migrant labor camps. As noted above, the Department also obtained the input of the Ad Hoc Committee on Migrant Seasonal Farmworkers, holding three meetings with that committee to review comments from

committee members and written comments submitted by stakeholders. In addition, the Department consulted with DHS, DSPS, and DNR. Pursuant to statute, the Governor's Council on Migrant Labor will review the rule at the same time that the department files notice of its intent to promulgate the rule with the legislature, and have the opportunity to disprove the rule, which will prevent the Department from promulgating the rule. Section 103.968, Stats.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis

As of May 2023, approximately 281 entities are subject to ch. DWD 301's requirements. Of that total, 207 are migrant labor employers and 74 are either migrant labor contractors or agents of employers. Of the 281 businesses, 125 of them operate 261 migrant labor camps located throughout the state. Most of these migrant labor camp operators, migrant labor contractors, and employers are small businesses, as defined in s. 227.114 (1), Stats.

The rule may have a minimal economic impact on small businesses. For example, as noted above, the rule requires dryers provided for migrant labor camp occupants in the ratio of one per 20 occupants. If a migrant labor camp operated by a small business does not satisfy that ratio, the small business will have to purchase one or more dryers or may request a variance from the Department.

The Department has determined that the rule's economic impact on small businesses will be minimal for the following reasons. First, except for the application fee for an annual certificate to operate a migrant labor camp, the rule does not increase other fees required under the current chapter or penalty fees the Department is allowed to assess under the current chapter. Second, many of the rule's new requirements are consistent with requirements of other state and federal agencies that apply on their own to migrant labor camp operators, migrant labor camp contractors, and employers and, therefore, do not introduce new compliance standards. For example, the rule creates s. DWD 301.075 (1), which requires migrant labor camp operators, migrant labor contractors, and employers to report migrant worker communicable diseases cases to local health officers as required under s. DHS 145.04 (3). Third, some of the rule's new requirements impose compliance costs that are proportionately higher based on the number of occupants in a migrant labor camp and, because migrant labor camps operated by small businesses have fewer occupants than those operated by larger businesses, those costs are anticipated to have only minimal impact on small businesses. For example, the rule requires that in toilet facilities used by at least 10 males, a urinal must be provided for every 25 males, instead of every 40 males, as required under the current chapter. However, based on the Department's review, the change is not anticipated to impact most small businesses because the occupants of their camps do not meet the next threshold of 50 males, which would require installation of a second urinal under the new rules, so only one will be required. The economic impact of this requirement is less for small businesses that operate migrant labor camps with smaller numbers of occupants, as their number of occupants may be below the new ratios and no change at their facilities may be required. Finally, as under the current chapter, the rule allows the Department to issue variances from migrant labor camp and field sanitation requirements. Therefore, a small business can apply for a variance that reduces that economic impact of a requirement, which the Department may grant if the variance is necessary to prevent a practical difficulty or unnecessary hardship and other requirements are satisfied.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business

As noted above, the Department expects that the rule will have a minimal economic impact on small businesses.

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

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Place where comments are to be submitted and deadline for submission

Mark Kunkel, Rules and Records Coordinator
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Comments may be submitted to the contact information listed above no later than a date to be determined. The date, time and place of the public hearing will be published in the Wisconsin Administrative Register.

Text of Rule

- 1 **SECTION 1.** DWD 301.015 (title), (intro.) and (Note) are created to read:
- 2 DWD 301.015 **Definitions.** In this chapter and ss. 103.90 to 103.97, Stats:
- 3 **Note:** For terms that are not used in this chapter, this section includes notes identifying the statutes
- 4 in which the terms are used.
- 5 **SECTION 2.** DWD 301.015 (1) and (2) are created to read:
- 6 DWD 301.015 (1) "Agricultural or horticultural commodity" has the meaning given in 29 CFR
- 7 780.112.
- 8 (2) "Applicable wage rate" means the actual anticipated straight-time hourly rates that a worker will
- 9 be paid and any other wages, as defined in s. 109.01 (3), Stats., that are payable to the worker.
- 10 **SECTION 3.** DWD 301.015 (5) to (8) are created to read:

1 DWD 301.015 (5) "Common use room, shower facility, or toilet facility" means a room, toilet facility,
2 or shower facility that is designed for use by occupants who are not members of the same family.

3 (6) "Communicable disease" means a disease listed in ch. DHS 145 Appendix A.

4 (7) "Department" means the department of workforce development.

5 (8) "Employer" has the meaning given in s. 103.90 (2), Stats.

6 **SECTION 4.** DWD 301.015 (9) (Note) is created to read:

7 DWD 301.015 (9) **Note:** The above term is used in the definition of "migrant labor contractor" at s.
8 103.90 (4), Stats.

9 **SECTION 5.** DWD 301.015 (11) (Note) is created to read:

10 DWD 301.015 (11) **Note:** The above term is used in the definition of "migrant labor contractor" at s.
11 103.90 (4), Stats.

12 **SECTION 6.** DWD 301.015 (12) is created to read:

13 301.015 (12) "Habitable room" has the meaning given in s. SPS 320.07 (37).

14 **SECTION 7.** DWD 301.015 (15) and (Note) are created to read:

15 DWD 301.15 (15) "Immediate family" means any of the following:

16 (a) A spouse.

17 (b) Natural, adopted, or foster children; stepchildren; and legal wards.

18 (c) Natural, foster, or adoptive parents; stepparents; and legal guardians.

19 (d) Brothers, sisters, and half brothers and sisters.

20 (e) Grandparents.

21 **Note:** The above term is used in the definition of "migrant labor contractor" at s. 103.90 (4), Stats.,
22 and in s. DWD 301.07 (23) (b).

23 **SECTION 8.** DWD 301.015 (16) to (18) are created to read:

24 DWD 301.15 (16) "Migrant labor camp" has the meaning given in s. 103.90 (3), Stats.

25 (17) "Migrant labor contractor" has the meaning given in s. 103.90 (4), Stats.

1 **(18)** "Migrant worker" or "worker" has the meaning given in s. 103.90 (5), Stats.

2 **SECTION 9.** DWD 301.015 (21) (Note) is created to read:

3 DWD 301.015 **(21) Note:** The above term is used in the definition of "migrant labor contractor" at s.
4 103.90 (4), Stats.

5 **SECTION 10.** DWD 301.015 (25) and (26) are created to read:

6 DWD 301.015 **(24)** "Wisconsin commercial building code" means chs. SPS 361 to 366.

7 **(25)** "Working day" means any day except Saturday, Sunday, and holidays designated in s. 230.35
8 (4) (a).

9 **SECTION 11.** DWD 301.03 is repealed and recreated to read:

10 DWD 301.03 **Forms.** The department shall issue and make available any forms that are required
11 to comply with this chapter.

12 **SECTION 12.** DWD 301.03 (Note) is created to read:

13 DWD 301.03 **Note:** All forms issued by the department to comply with this chapter may be obtained
14 at <https://dwd.wisconsin.gov/jobservice/MSFW/forms.htm> or from the Department of Workforce
15 Development, Migrant and Seasonal Farmworker Programs, Dane County Job Service, 1819 Aberg
16 Avenue, Ste. C, Madison, WI 53704. Email address: MSFW@dwd.wisconsin.gov.

17 **SECTION 13.** DWD 301.04 (title) is repealed and recreated to read:

18 DWD 301.04 (title) **Complainant confidentiality.**

19 **SECTION 14.** DWD 301.04 (1) is repealed.

20 **SECTION 15.** DWD 301.04 (2) is renumbered DWD 301.04 and amended to read:

21 DWD 301.04 The department may not disclose the name of a person filing a complaint with the
22 department under s. 103.905 (4), Stats., if the person requests that ~~his/her~~ the person's name not be disclosed
23 by the department.

24 **SECTION 16.** DWD 301.05 (1) (title) is created to read:

25 DWD 301.05 **(1) CERTIFICATE OF REGISTRATION.**

1 **SECTION 17.** DWD 301.05 (1) and (2) are consolidated, renumbered DWD 301.05 (1) (a) and amended to
2 read:

3 DWD 301.05 (1) (a) A ~~migrant labor contractor~~ person shall apply annually to the department for
4 issuance or renewal of a certificate of registration to engage in activities as a migrant labor contractor on a
5 form prescribed by the department or on the form used to comply with 29 USC 1811(a). ~~(2)~~ The ~~annual~~
6 fee for ~~certification~~ issuance or renewal of the certificate of registration shall be \$100.

7 **SECTION 18.** DWD 301.05 (1) (a) (Note) is created to read:

8 DWD 301.05 (1) (a) **Note:** Section 103.91 (1), Stats., prohibits a person from engaging in activities
9 as a migrant labor contractor unless the person obtains a certificate of registration from the department.
10 Section 103.91 (3), Stats., requires a certificate to be renewed annually.

11 **SECTION 19.** DWD 301.05 (1) (b) and (Note) are created to read:

12 DWD 301.05 (1) (b) The department shall review and make a determination on a person's application
13 under par. (a) within 20 working days after the application is received. The department may extend the time
14 period for making a determination in order to determine whether s. 103.91 (4) (b), (c), or (d), Stats., applies
15 to the person.

16 **Note:** Sections 103.91 (4) (b), (c), and (d), Stats., specify the circumstances for denying, suspending,
17 revoking, or not renewing a certificate of registration to engage in activities as a migrant labor contractor
18 based on delinquencies in child or family support, taxes, or unemployment insurance contributions.

19 **SECTION 20.** DWD 301.05 (1) (c) is created to read:

20 DWD 301.05 (1) (c) If the department refuses to issue a certificate of registration to engage in migrant
21 labor contractor activities to a person or suspends, revokes, or refuses to renew a person's certificate of
22 registration to engage in migrant labor contractor activities, the person may, within 20 days of the date of
23 the refusal, suspension, or revocation, file a written request for a hearing under s. DWD 301.135. The
24 request shall specify the grounds for the review and the relief sought.

25 **SECTION 21.** DWD 301.05 (3) is repealed.

1 **SECTION 22.** DWD 301.05 (4) is renumbered DWD 301.015 (11) and amended to read:

2 DWD 301.015 (11) ~~The term "fee~~ "Fee or other consideration" means money or anything of
3 value or benefit paid or promised to be paid for services as a migrant labor contractor.

4 **SECTION 23.** DWD 301.05 (5) is renumbered DWD 301.015 (21) and amended to read:

5 DWD 301.015 (21) ~~The term "regular~~ "Regular employee" means a person employed year round
6 by an employer and who engages in activities as a migrant labor contractor solely for ~~his/her~~ the
7 employer.

8 **SECTION 24.** DWD 301.05 (6) is renumbered DWD 301.015 (9) and amended to read:

9 DWD 301.015 (9) ~~The term "employer's~~ "Employer's own operation" means any farm or other
10 business enterprise wholly owned or managed by the employer.

11 **SECTION 25.** DWD 301.05 (7) is repealed.

12 **SECTION 26.** DWD 301.05 (8) (title) is created to read:

13 DWD 301.05 (8) DUTIES.

14 **SECTION 27.** DWD 301.05 (8) (intro.) is amended to read:

15 DWD 301.05 (8) (intro.) Every migrant labor contractor shall do all of the following:

16 **SECTION 28.** DWD 301.05 (8) (a) is amended to read:

17 DWD 301.05 (8) (a) Submit a separate application for a ~~farm~~ migrant labor contractor employee
18 identification card on a form prescribed by the department or the form used to comply with 29 USC 1811(b)
19 for each officer, director, partner, or agent of the migrant labor contractor at the time of application or within
20 10 days after hiring or contracting with such person.

21 **SECTION 29.** DWD 301.05 (8) (am) is created to read:

22 DWD 301.05 (8) (am) Provide to the department a copy of the migrant labor contractor's certificate
23 of registration as a farm labor contractor issued pursuant to 29 USC 1811(a) and the certificate of
24 registration issued to any individual hired, employed, or used by the migrant labor contractor to perform
25 farm labor contracting activities.

26 **SECTION 30.** DWD 301.05 (8) (b) is renumbered DWD 301.05 (8) (b) (intro.) and amended to read:

1 DWD 301.05 (8) (b) (intro.) Keep records ~~which~~ that show all of the following for each worker
2 recruited: ~~name~~

3 1. Name in full, and home address, ~~all sums.~~

4 2. All fees and other consideration paid to the migrant labor contractor on account of the labor or
5 recruitment of the worker, ~~the~~

6 3. The cost to the migrant labor contractor of goods and services provided to the worker ~~and all~~

7 4. All sums and the purpose for all sums received from or on behalf of the worker. ~~The contractor~~
8 ~~shall preserve such~~

9 (bm) Preserve the records specified in par. (b) for a period of 3 years and ~~shall~~ make them available
10 to the worker or the department for inspection upon request.

11 **SECTION 31.** DWD 301.05 (8) (c) is amended to read:

12 DWD 301.05 (8) (c) Provide a policy under s. 103.91 (8) (f), Stats., the limits of which with
13 respect to each vehicle shall be not less than \$100,000 for each seat in the vehicle, but in no event is the
14 total insurance required to be more than \$5,000,000 for any one vehicle. ~~The~~ For purposes of this
15 paragraph, the number of seats in the vehicle shall be determined pursuant to the federal regulations
16 relating to the transportation of migrant and seasonal agricultural workers under is the manufacturer's
17 rated capacity or, for vehicles fitted or customized after manufacture, the number of seats prescribed in 29
18 CFR Part 500 500.105 (b) (3) (vi) (D). This ~~requirement~~ paragraph shall not apply if the migrant labor
19 contractor furnishes transportation only as the agent of an employer who has obtained a policy of
20 insurance against liability for damages arising out of the operation of motor vehicles with coverage
21 equivalent to the coverage required under this paragraph.

22 **SECTION 32.** DWD 301.05 (8) (d) is amended to read:

23 DWD 301.05 (8) (d) Provide a completed Form WH-514 (Vehicle Vehicle Mechanical Inspection
24 Report) Report Form WH-514 for each vehicle used to transport individuals or property in connection with
25 activities as a migrant labor contractor.

1 **SECTION 33.** DWD 301.05 (8) (d) (Note) is created to read:

2 DWD 301.05 (8) (d) **Note:** Form WH-514 is available for the U.S. Department of Labor at
3 <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh514.pdf>.

4 **SECTION 34.** DWD 301.05 (8) (e) is amended to read:

5 DWD 301.05 (8) (e) Provide every worker recruited a written work agreement as specified in ss.
6 103.90 to 103.97, Stats., and this chapter. If recruitment of a worker is by telephone, the migrant labor
7 contractor shall provide the written work agreement as soon as reasonably possible.

8 **SECTION 35.** DWD 301.05 (9) is repealed.

9 **SECTION 36.** DWD 301.06 (title) is amended to read:

10 DWD 301.06 (title) **Work agreements and written disclosures.**

11 **SECTION 37.** DWD 301.06 (1e) is created to read:

12 DWD 301.06 (1e) A work agreement and written recruiting disclosure statement shall include all of
13 the following:

14 **Note:** Section 103.915(1)(a), Stats., requires that a migrant worker be provided with a written
15 recruiting disclosure statement containing the information required in a work agreement at the time of the
16 worker's recruitment.

17 (a) A description of cooking, bathing, laundry, and toilet facilities.

18 (b) A statement of the maximum number of persons to be accommodated in the following:

19 1. If the work agreement is for employment of a single person, the sleeping area to which the person
20 will be assigned.

21 2. If the work agreement is for employment of a family, the housing unit to which the family will be
22 assigned.

23 (c) The positions related to planting, cultivating, raising, harvesting, handling, drying, packing,
24 packaging, processing, freezing, grading, or storing any agricultural or horticultural commodity in its
25 unmanufactured state.

1 (d) Transportation costs, if any, paid by the worker.

2 (e) If the employer provides transportation for the worker, the specific mode of transportation,
3 including the type of vehicle used.

4 (f) If the employer makes a payroll deduction for a travel or subsistence advance, the rate of the
5 deduction.

6 **SECTION 38.** DWD 301.06 (2) is renumbered DWD 301.015 (10) and amended to read:

7 DWD 301.015 (10) ~~In the department's interpretation of s. 103.915 (1)(a), Stats., and in this~~
8 ~~chapter, the term "employment"~~ "Employment" means the act of having direction and control of any
9 worker, being responsible for the wages of a worker, or allowing a worker to perform work for the
10 worker's employer.

11 **SECTION 39.** DWD 301.06 (2m) is renumbered DWD 301.015 (20) and amended to read:

12 DWD 301.015 (20) ~~In the department's interpretation of s. 103.915 (1)(a), Stats., and in this~~
13 ~~chapter, the term "Recruit or "recruitment"~~ means offering a migrant worker to offer, or the offer of,
14 employment to a migrant worker whether by personal contact, telephone, correspondence, or a recall
15 notice due to a union contract. ~~If recruitment is by telephone, the written work agreement shall be~~
16 ~~furnished as soon as reasonably possible.~~

17 **SECTION 40.** DWD 301.06 (3) and (4) are consolidated, renumbered DWD 301.06 (3) and amended to
18 read:

19 DWD 301.06 (3) If an employer does not use the department's prescribed migrant labor work
20 agreement form, the employer shall use a form approved by the department. An employer may not use a
21 form unless it has been approved by the department prior to its use. ~~(4)~~ When considering an employer's
22 form for approval, the department shall, in addition to the requirements of s. 103.915 (4), Stats., take into
23 account the clarity and design of such form.

24 **SECTION 41.** DWD 301.06 (3m) is created to read:

1 DWD 301.06 (3m) An employer may offer to provide to a migrant worker a migrant labor work
2 agreement in an electronic form as provided in s. 137.15, Stats. If the migrant worker does not consent to
3 receive the migrant labor work agreement electronically, the employer shall provide a physical copy of the
4 migrant labor work agreement. By the first day of work, an employer shall provide a physical copy of the
5 migrant labor work agreement to all migrant workers, including those who consented to receive the
6 agreement electronically.

7 **SECTION 42.** DWD 301.06 (5) to (7) are repealed.

8 **SECTION 43.** DWD 301.06 (8) is renumbered DWD 301.06 (8) (a) and amended to read:

9 DWD 301.06 (8) (a) The minimum work guarantee under s. 103.915 (4) (b), Stats., shall cover the
10 period from the date the worker is notified by the employer to report for work, which date shall be ~~no later~~
11 ~~than 10 days from~~ reasonably related to the approximate beginning date specified in the work agreement,
12 or the date the worker reports for work, whichever is later, and continuing until the date of the final
13 termination of employment, ~~which date shall be no sooner than 7 days before the approximate ending date~~
14 ~~specified in the work agreement~~ as specified in the work agreement, or earlier if the worker is terminated
15 for cause or due to seriously adverse circumstances beyond the employer's control. If a worker is notified
16 by the employer to report for work or is employed prior to the approximate beginning date specified in the
17 work agreement, the period of employment and the guarantee of minimum work shall begin on the date the
18 worker is notified to report for work or the date the worker reports for work, whichever is later, and shall
19 continue until the final termination of employment, as specified in the work agreement, signed at the time
20 of recruitment, or earlier if the worker is terminated for cause or due to seriously adverse circumstances
21 beyond the employer's control.

22 **SECTION 44.** DWD 301.06 (8) (b) is created to read:

23 DWD 301.06 (8) (b) For purposes of par. (a), a date shall be considered "reasonably related to
24 the approximate beginning date specified in a work agreement" if the number of days between the date
25 the worker is notified by the employer to report for work and the approximate beginning date specified in
26 the work agreement pursuant to s. 103.915 (4) (b), Stats., is no greater than 15% of the length of time

1 between the approximate beginning date specified in the work agreement and the date of the final
2 termination of employment as specified in the work agreement or 10 days, whichever is shorter.

3 **SECTION 45.** DWD 301.06 (8) (d) is created to read:

4 DWD 301.06 (8) (d) If a migrant worker is required by the employer to isolate under s. DWD
5 301.075 (2) (d), the migrant worker is considered available for work for purposes of s. 103.915 (4) (b),
6 Stats, during the period of required isolation.

7 **SECTION 46.** DWD 301.06 (9) is renumbered DWD 301.06 (8) (c) and amended to read:

8 DWD 301.06 (8) (c) ~~The term "seriously~~ For purposes of par. (a) and s. 103.915 (4) (b) and (5),
9 Stats., in determining whether an interruption in operations constitutes seriously adverse circumstances
10 beyond the employer's ~~control" means~~ control, the department shall consider the circumstances that led to
11 ~~the substantial shutdown~~ interruption of the employer's operations including, ~~without limitation because~~
12 ~~of enumeration,~~ loss of crops, loss of; or inability to operate facilities, or inability to store or process
13 unmarketable, perishable agricultural produce; ~~such term shall not apply to the shutdown of the~~
14 ~~employer's operation for change over~~ and the department may not consider change-over of equipment or
15 between packs or crops. The department shall also consider the duration of the interruption of the
16 employer's operations in relation to the term of employment identified in the work agreement pursuant to
17 s. 103.915 (4) (a), Stats.

18 **SECTION 47.** DWD 301.06 (10) is renumbered DWD 301.015 (23) and amended to read:

19 DWD 301.015 (23) "Terms and conditions of employment" includes, ~~without limitation because~~
20 ~~of enumeration,~~ job assignment, layoffs, discharge, filling vacancies, transfers, job bidding, seniority,
21 hours, work schedule, overtime pay, leave of absence, benefits, insurance, pension, vacation, holiday
22 leave, sick leave, ~~or~~ and general working conditions.

23 **SECTION 48.** DWD 301.06 (11) is amended to read:

24 DWD 301.06 (11) ~~Elapsed~~ For purposes of s. 103.915 (5), Stats., elapsed time shall be computed,
25 ~~subject to the limits in s. 103.915 (5), Stats.,~~ on the basis of 500 miles of travel per day.

26 **SECTION 49.** DWD 301.06 (12) (a) is renumbered DWD 301.06 (12) and amended to read:

1 DWD 301.06 (12) ~~“Applicable wage rates” means the actual anticipated straight time hourly rates~~
2 ~~the worker will be paid.~~ If the worker will be paid on a piece rate basis, the applicable wage rate included
3 in the work agreement shall show be the employer’s ~~guarantee~~ guaranteed hourly rate. If at the time of
4 recruitment the employer cannot anticipate the exact rate the worker will be paid, the work agreement shall
5 specify a base rate which shall be not less than the base rate paid by the employer at the end of the preceding
6 season for the kind of work specified, together with the words “or more” or similar phrase.

7 **SECTION 50.** DWD 301.06 (12) (b) is repealed.

8 **SECTION 51.** DWD 301.06 (14) and (15) are amended to read:

9 DWD 301.06 (14) ~~When~~ If an employer uses multiple sheet forms and signs the agreement first, the
10 work agreement may provide that it may be cancelled by the employer if, by a specific date, the employer
11 or the designated agent has not received a fully signed copy of the work agreement, but only if the provision
12 is set forth in a conspicuous manner compared to the printing of the rest of the work agreement.

13 (15) The work agreement may provide for cancellation by the employer if the worker fails to notify
14 the employer or designated agent within a reconfirmation period of not less than 15 days of ~~his or her~~ the
15 worker's continuing intention to accept the employment, but only if the provision is set forth in a
16 conspicuous manner compared to the printing of the rest of the work agreement. Notification of
17 reconfirmation may be made by collect telephone call, by an employer provided prepaid postcard, or any
18 other means paid for by the employer.

19 **SECTION 52.** DWD 301.06 (16) is repealed.

20 **SECTION 53.** DWD 301.07 (1) (title) is repealed and recreated to read:

21 DWD 301.07 (1) (title) CERTIFICATE.

22 **SECTION 54.** DWD 301.07 (1) (a) is amended to read:

23 DWD 301.07 (1) (a) The application fee for ~~operating~~ an annual certificate to operate a migrant labor
24 camp shall be \$50, ~~plus the cost of water sampling and testing under sub. (9) (e)~~ \$100. Issuance of a
25 certificate to operate ~~will be~~ a migrant labor camp is contingent on the migrant labor camp satisfying the

1 minimum standards of this chapter. ~~The application fee for a registration after March 31 shall be \$100, plus~~
2 ~~the cost of water sampling and testing under sub. (9) (e).~~

3 (ar) The department shall review and make a determination on an application ~~under this subsection~~
4 for a certificate to operate a migrant labor camp within ~~130~~ 140 working days after the application is
5 received ~~and~~ or within 20 working days after the ~~camp has been inspected~~ last inspection of the migrant
6 labor camp that is needed for issuance of the certificate, whichever is sooner. The department shall schedule
7 each inspection promptly, taking into consideration seasonal conditions and the employer's schedule for
8 the use of the migrant labor camp. If 3 or more inspection visits are needed ~~to certify~~ for issuance of the
9 certificate, the department shall charge an additional fee of \$300 for the third inspection and \$500 for the
10 fourth inspection and each subsequent inspection.

11 **SECTION 55.** DWD 301.07 (1) (a) (Note) is created to read:

12 DWD 307.07 (1) (a) **Note:** Section 103.92 (1) (a), Stats., requires every person maintaining a migrant
13 labor camp in this state to apply for a certificate to operate the migrant labor camp and requires the
14 application to be made annually by April 30 or 30 days prior to opening a new migrant labor camp. With
15 certain exceptions, s. 103.92 (3), Stats., requires the department to issue a certificate if the migrant labor
16 camp is in compliance with the department's rules establishing minimum standards for migrant labor camps.
17 Section 103.92 (3), Stats., also provides that a certificate issued by the department authorizes a migrant
18 labor camp to operate until March 31 of the next year.

19 **SECTION 56.** DWD 301.07 (1) (ag) is created to read:

20 DWD 301.07 (1) (ag) A camp operator shall include with an application for a certificate to operate a
21 migrant labor camp all of the following:

22 1. Documentation from the fire department providing fire protection for the migrant labor camp that
23 the structures used for the migrant labor camp meet all local and state fire codes for the number of expected
24 occupants identified on the application. The documentation shall be based on a fire inspection conducted
25 no more than 6 months before submittal of an application for a certificate to operate a migrant labor camp.

1 2. The test results for the water sample required under sub. (9) (ar).

2 3. The written procedures for the temporary isolation of sick or injured occupants required under s.
3 DWD 301.075 (2) (c).

4 **SECTION 57.** DWD 301.07 (1) (ar) (Note) is created to read:

5 DWD 301.07 (1) (ar) **Note:** Section 103.92 (3), Stats., requires the department to inspect each migrant
6 labor camp for which an application for a certificate to operate a migrant labor camp is made.

7 **SECTION 58.** DWD 301.07 (1) (aw) and Note are created to read:

8 DWD 301.07 (1) (aw) Except for the denial of a certificate to operate a migrant labor camp that is
9 required under s. 103.92 (6), (7), or (8), Stats., an applicant who wishes to contest the department's denial
10 of a certificate may, within 30 days after the date of the denial, file a written request for hearing under s.
11 DWD 301.135.

12 **Note:** Sections 103.92 (6), (7), and (8), Stats., specify requirements for the Department to deny a
13 certificate based on delinquencies in child or family support, taxes, or unemployment insurance
14 contributions and such denials are subject to review as specified in those statutes.

15 **SECTION 59.** DWD 301.07 (1) (c) to (f) are amended to read:

16 DWD 301.07 (1) (c) The department ~~shall~~ may not conduct any inspection for an applicant under this
17 subsection until the application fee has been paid and the department has received the completed application
18 ~~has been filed~~.

19 (d) The department shall charge a fee of \$100 for each partial inspection that is requested. A partial
20 inspection is not an additional inspection visit under par. ~~(a)~~ (ar).

21 (e) A visit to a migrant labor camp that is solely for the purpose of obtaining a water sample for
22 testing is not an additional inspection visit under par. ~~(a)~~ (ar).

23 (f) If the only purpose for an additional inspection visit is to verify that specified corrections have
24 been made, the department may instead accept ~~a letter~~ letters, emails, photos, receipts, or other documents
25 from the camp operator ~~which verifies~~ that verify that the corrections have been made.

1 **SECTION 60.** DWD 301.07 (1) (g) is created to read:

2 DWD 301.07 (1) (g) A copy of the camp operator's certificate to operate a migrant labor camp shall
3 be posted in a conspicuous place in the migrant labor camp. The posting shall be on a form prescribed by
4 the department and shall be in English and in the language of the occupants if other than English.

5 **SECTION 61.** DWD 301.07 (1m) (Note) is created to read:

6 DWD 301.07 (1m) **Note:** Section 103.92 (4), Stats., allows only certified migrant labor camps to
7 operate in this state and requires the department to order the immediate closing of all other migrant labor
8 camps.

9 **SECTION 62.** DWD 301.07 (2) is amended to read:

10 DWD 301.07 (2) **CLOSING ORDER.** Within 3 working days from the date of an order closing a migrant
11 labor camp, the department shall transmit the file and a copy of the order to the attorney general or the
12 district attorney for the county in which the violation occurred for prosecution.

13 **SECTION 63.** DWD 301.07 (2) (Note) is created to read:

14 DWD 301.07 (2) **Note:** Section 103.92 (4), Stats., authorizes the attorney general or district attorney
15 to enforce the department's closing order.

16 **SECTION 64.** DWD 301.07 (3) is renumbered DWD 301.07 (1m) and amended to read:

17 DWD 307.07 (1m) **NOTICE OF REVOCATION.** If the department determines that a migrant labor camp
18 is operating without a certificate to operate a migrant labor camp or identifies any other violation of this
19 section or s. 103.92, Stats., that would warrant revocation of a certificate, the department shall provide a
20 notice of violation pursuant to s. 103.965 (1), Stats., and allow up to 15 days to correct the violation. If the
21 violation is not corrected, the department shall issue a notice of revocation of the certificate to operate a
22 migrant labor camp. ~~Every~~ The notice of revocation of a certificate to operate a camp shall be accompanied
23 by a closing order.

24 **SECTION 65.** DWD 301.07 (4) is amended to read:

1 DWD 301.07 (4) GATES AND GATEWAYS. ~~“Gates and gateways” means a gate or gateway~~ Any fence
2 around a migrant labor camp shall have one or more unlocked gates or gateways that have a width of which
3 that is no less than the aggregate width required for exits under chs. SPS 361 to 365 on May 1, 1978 the
4 Wisconsin commercial building code for a building with the same occupant load of which is the same as
5 ~~the occupant load of~~ as the migrant labor camp.

6 **SECTION 66.** DWD 301.07 (5) (title) is repealed.

7 **SECTION 67.** DWD 301.07 (5) (a) is renumbered DWD 301.015 (3).

8 **SECTION 68.** DWD 301.07 (5) (b) is renumbered DWD 301.015 (4) and amended to read:

9 DWD 301.015 (4) “Common use ~~facilities~~” facility” means ~~structures or areas~~ a structure or area
10 other than sleeping or living quarters that is designed to be used by camp for use by occupants who are
11 not members of the same family.

12 **SECTION 69.** DWD 301.07 (5) (c) is renumbered DWD 301.015 (19).

13 **SECTION 70.** DWD 301.07 (5) (d) is renumbered DWD 301.015 (22) and amended to read:

14 DWD 301.015 (22) "Service buildings" means common use facilities for toilets, lavatories,
15 showers, and laundry facilities.

16 **SECTION 71.** DWD 301.07 (6) (a) is renumbered DWD 301.07 (6) (ar) and amended to read:

17 DWD 301.07 (6) (ar) Except as provided under par. (b), plans and specifications for all new
18 construction ~~including additions or alterations to existing buildings~~ intended for use as housing or common
19 use facilities shall be approved by the department before letting contracts or commencing work.

20 **SECTION 72.** DWD 301.07 (6) (a) (Note) is renumbered DWD 301.07 (6) (b) 3. (Note) and amended to
21 read:

22 DWD 301.07 (6) (b) 3. **Note:** Plans and specifications for all new construction, ~~including additions~~
23 ~~to existing buildings,~~ may also require the approval of the Department of Safety and Professional Services,
24 a municipality, or a local governmental unit under the Wisconsin ~~Commercial Building Code~~ commercial
25 building code. Contact the Department of Safety and Professional Services, Division of ~~Safety and~~

1 ~~Buildings, 201 W. Washington Avenue~~ Industry Services Plan Review, 4822 Madison Yards Way,
2 Madison, WI ~~53703~~ Wisconsin 53705 for further information.

3 **SECTION 73.** DWD 301.07 (6) (ag) is created to read:

4 DWD 301.07 (6) (ag) In this subsection:

5 1. "Addition" means construction performed on a building that increases the outside dimensions of
6 the building.

7 2. "Alteration" means an enhancement, upgrading, or substantial change or modification to a building
8 other than an addition or repair to the building or to electrical, plumbing, heating, ventilating, air
9 conditioning and other systems within the building.

10 3. "New construction" includes an addition or alteration to an existing building.

11 4. "Repair" means the act or process of restoring to original soundness, including redecorating,
12 refinishing, nonstructural repairs, or maintenance, or the replacement of existing fixtures, systems, or
13 equipment with the equivalent fixture, system. or equipment.

14 **SECTION 74.** DWD 301.07 (6) (b) (intro.) is amended to read:

15 DWD 301.07 (6) (b) (intro.) ~~An operator constructing~~ If the new construction will result in any of
16 the following buildings ~~shall not be,~~ the camp operator is not required to submit plans and specifications
17 under par. (a) ~~(ar)~~ (ar) if the camp operator submits notice of intent to construct such a building to the department
18 prior to constructing such a building:

19 **SECTION 75.** DWD 301.07 (6) (b) 2. and 3. are amended to read:

20 DWD 301.07 (6) (b) 2. Buildings for use by not more than ~~40~~ 8 persons who are not members of the
21 same family.

22 3. Common use facilities containing less than 25,000 cubic feet total volume ~~providing they~~ that have
23 no floor or roof span greater than 30 feet and that are not more than 2 stories high.

24 **SECTION 76.** DWD 301.07 (6) (c) and (d) are consolidated, renumbered DWD 301.06 (6) (c) and
25 amended to read:

1 DWD 301.07 (6) (c) ~~Three copies~~ One copy of plans and ~~one copy~~ of specifications are required for
2 to obtain the department's approval. ~~(d) Plans~~ under par. (ar). The plans shall include all of the following:

3 1. A plot plan of the migrant labor camp ~~which~~ that includes the location and grades of adjoining
4 streets, alleys, lot lines, and any other buildings on the same lot or property.

5 2. ~~Name~~ The name of the owner of the migrant labor camp.

6 3. ~~Intended~~ The intended use or uses of all rooms; and the number of persons to be accommodated
7 therein.

8 **SECTION 77.** DWD 301.07 (6) (e) is repealed.

9 **SECTION 78.** DWD 301.07 (6) (f) is amended to read:

10 DWD 301.07 (6) (f) One set of approved plans shall be kept by the owner of the migrant labor camp
11 or camp operator and made available to ~~the~~ a migrant labor inspector of the department.

12 **SECTION 79.** DWD 301.07 (7) (a), (b) and (c) are amended to read:

13 DWD 301.07 (7) (a) The department may, upon written application by a camp operator and inspection
14 by a migrant labor inspector of the department, grant written permission to individual camp operators to
15 vary temporarily from particular provisions ~~set forth~~ in this section, ~~which.~~ The department may approve
16 a variance may under this paragraph that does not extend beyond March 31 of the year immediately
17 following the year of approval; if the camp operator indicates the extent of the variance is clearly specified
18 ~~and if the camp operator in the application and demonstrates to the department that the variance is necessary~~
19 for all of the following purposes:

20 1. ~~A variance is necessary to obtain~~ Obtaining a beneficial use of an existing facility; and

21 2. ~~A variance is necessary to prevent~~ Preventing a practical difficulty or unnecessary hardship; and

22 (b) The department may, upon written application by a camp operator and inspection by a migrant
23 labor inspector of the department, grant written permission to a camp operator to permanently vary from
24 the provisions of this section if all of the following apply:

1 1. The camp operator ~~satisfies the requirements of~~ demonstrates to the department that the variance
2 is necessary for the purposes specified in par. (a) 1. and 2.

3 2. Appropriate alternative measures have been taken ~~to~~ that protect the health and safety of the
4 occupants and ~~to assure that~~ serve the purpose of the provisions from which variance is sought ~~will be~~
5 ~~observed.~~

6 (c) ~~Written application for a variance under this subsection shall be filed with the department. A~~
7 variance shall not be effective until granted in writing by the department.

8 **SECTION 80.** DWD 301.07 (7) (c) (Note) is repealed.

9 **SECTION 81.** DWD 301.07 (8) (bm) is created to read:

10 DWD 301.07 (8) (bm) The principal camp area in which food is prepared and served and where
11 sleeping quarters are located shall be at least 500 feet from any area in which livestock is kept.

12 **SECTION 82.** DWD 301.07 (8) (c) to (e) are amended to read:

13 DWD 301.07 (8) (c) (c) Grounds within ~~the housing site~~ sites shall be free from debris, noxious
14 plants ~~(poison, including poison ivy, etc.)~~ and uncontrolled weeds or brush.

15 (d) ~~The~~ A housing site shall provide a space for recreation reasonably related to the size of the
16 facility and type of occupancy.

17 (e) No mobile home unit ~~shall~~ may be located less than 10 feet from any other building ~~or,~~ from the
18 boundary line of the premises on which ~~it~~ the mobile home unit is located, or from any street.

19 **SECTION 83.** DWD 301.07 (8) (f) 1. is renumbered DWD 301.07 (8) (f) 1. (intro.) and amended to read:

20 DWD 301.07 (8) (f) 1. (intro.) To ~~insure~~ ensure that ~~the~~ a housing site is not subject to a hazardous
21 condition arising from pesticide application, the camp operator shall do all of the following:

22 a. Make a written request for advance notice of aerial pesticide applications from persons who own
23 or control immediately adjacent land, pursuant to s. ATCP 29.51 (2). Upon receipt of notice of an aerial
24 pesticide application, the camp operator shall immediately give notice to camp occupants immediately or
25 as soon as reasonably possible, of the aerial application of pesticides on immediately adjacent land, as

1 ~~defined in ch. ATCP 29, which is owned or controlled by another party, such notice having been received~~
2 ~~by the camp operator. Camp operators shall request this notice from persons who own or control adjacent~~
3 ~~land.~~

4 **SECTION 84.** DWD 301.07 (8) (f) 2. is renumbered DWD 301.07 (8) (f) 1. b. and amended to read:

5 DWD 301.07 (8) (f) 1. b. ~~To insure that the housing site is not subject to a hazardous condition~~
6 ~~arising from pesticide application, the camp operator shall provide~~ b. Provide to camp occupants advance
7 notice of at least 24 hours of any pesticide application on any land adjacent to the camp which is owned
8 or controlled by the camp operator. If the application date or time is changed so that the application will
9 occur before or after the intended date or time specified in the original notice of application, a new notice
10 shall be given as soon as possible prior to the application. In this subdivision, ~~"adjacent land"~~ "land
11 adjacent" means land within 250 feet of the housing site, including land separated from the migrant labor
12 camp by a roadway.

13 **SECTION 85.** DWD 301.07 (8) (f) 3. is renumbered DWD 301.07 (8) (f) 3. (intro.) amended to read:

14 DWD 301.07 (8) (f) 3. (intro.) ~~As used in subds. Notice under subd. 1. and 2., notice~~ shall be given
15 in English and in the language of the camp occupants, if other than English, by posting a written statement
16 on a camp bulletin board or at the location where the camp occupants report for work in a place where it
17 can be easily seen by the camp occupants. The notice shall include, ~~but not be limited to: the~~ all of the
18 following:

- 19 a. The intended date and time of application, ~~the~~
20 b. The location of the land on which the pesticide is expected to be applied, ~~the~~
21 c. The trade or common name of the pesticide ~~and a~~
22 d. A statement from the pesticide label of the practical treatment for potential side effects, including
23 ~~but not limited to~~ emergency first aid measures and information for physicians on treatment of poisons.

24 **SECTION 86.** DWD 301.07 (9) (a) (intro.) is renumbered DWD 301.07 (9) (ar) (intro.) and amended to
25 read:

1 DWD 301.07 (9) (ar) (intro.) An adequate and convenient supply of water safe for human
2 consumption, as defined in s. NR 809.04 (42m), shall be provided for the camp occupants. ~~As used in this~~
3 ~~subsection, "safe~~ Water is considered safe for human consumption" means consumption for purposes of
4 this paragraph if all of the following apply:

5 **SECTION 87.** DWD 301.07 (9) (a) 1. is renumbered DWD 301.07 (9) (ar) 1. and amended to read:

6 DWD 301.07 (9) (ar) 1. ~~That a~~ A water sample obtained within the ~~6-month~~ 3-month period prior to
7 the date the camp is to be occupied has been found ~~bacteriologically safe by a state approved laboratory;~~
8 ~~and~~ total coliform negative by a laboratory accredited under ch. NR 149 or approved by the U.S.
9 environmental protection agency.

10 **SECTION 88.** DWD 301.07 (9) (a) 2. (intro.) is renumbered DWD 301.07 (9) (ar) 2. and amended to read:

11 DWD 301.07 (9) (ar) 2. ~~That the~~ The water sample under subd. 1. has been analyzed by the ~~approved~~
12 laboratory specified in subd. 1. for nitrate concentration and found to contain a ~~nitrate-nitrogen~~ total nitrate
13 nitrite level not exceeding ~~10 milligrams per litre.~~ If the nitrate-nitrogen level exceeds 10 milligrams per
14 litre, a camp may be certified provided that: the maximum contaminant level specified in NR 809.11 (2).
15 If the maximum contaminant level is exceeded, the department may issue a certificate to operate the migrant
16 labor camp only if the camp operator demonstrates to the satisfaction of the department that the
17 requirements of s. NR 809.11 (3) (a) to (e) are satisfied.

18 **SECTION 89.** DWD 301.07 (9) (a) 2. a. and 2. b. are repealed.

19 **SECTION 90.** DWD 301.07 (9) (ag) is created to read:

20 DWD 301.07 (9) (ag) Any migrant labor camp regulated as a public water system under ch. NR
21 809 shall comply with ch. NR 809 in addition to the requirements of this section.

22 **SECTION 91.** DWD 301.07 (9) (c) is repealed.

23 **SECTION 92.** DWD 301.07 (9) (d) is amended to read:

24 DWD 301.07 (9) (d) Drinking fountains shall not be located in ~~toilet~~ rooms containing toilet facilities.

25 **SECTION 93.** DWD 301.07 (9) (e) and (Note) are repealed.

26 **SECTION 94.** DWD 301.07 (9) (f) and (g) are created to read:

1 DWD 301.07 (9) (f) Camp operators shall arrange to have well water tested by a laboratory certified
2 pursuant to s. NR 809.76 within 3 months before camp occupancy.

3 (g) Camp operators shall provide to the department the well construction reports for wells that are
4 required under s. NR 812.10 (11).

5 **SECTION 95.** DWD 301.07 (10) (a) and (b) are amended to read:

6 DWD 301.07 (10) (a) Facilities shall be provided and maintained for effective disposal of excreta
7 and liquid waste in a manner ~~which~~ that neither creates nor is likely to create a nuisance; or a hazard to
8 health.

9 (b) Raw or treated liquid waste shall not be discharged or allowed to accumulate on the ground
10 surface of ~~the~~ a migrant labor camp.

11 **SECTION 96.** DWD 301.07 (11) (a) is renumbered DWD 301.11 (11) (a) (intro.) and amended to read:

12 DWD 301.07 (11) (a) (intro.) Housing shall comply with ~~the following codes or sections of this code.~~
13 all federal, state, and local residential and commercial building codes, including the Wisconsin commercial
14 building code, and with all of the following:

15 **SECTION 97.** DWD 301.07 (11) (a) 1. is repealed.

16 **SECTION 98.** DWD 301.07 (11) (a) 2. is repealed and recreated to read:

17 DWD 301.07 (11) (a) 2. Exits and means of escape are subject to sub. (21) (b) to (e) and (f).

18 **SECTION 99.** DWD 301.07 (11) (a) 3. is amended to read:

19 DWD 301.07 (11) (a) 3. Maintenance of facilities ~~shall be as specified under~~ is subject to sub. (22).

20 **SECTION 100.** DWD 301.07 (11) (b) is amended to read:

21 DWD 301.07 (11) (b) Housing shall have flooring that is constructed of rigid materials, smooth
22 finished, readily cleanable, and so located as to prevent the entrance of ground and surface water.

23 **SECTION 101.** DWD 301.07 (11) (c) (intro.) is amended to read:

24 DWD 301.07 (11) (c) (intro.) ~~The~~ All of the following space requirements shall be met:

25 **SECTION 102.** DWD 301.07 (11) (d) and (e) are amended to read:

1 DWD 301.07 (11) (d) Housing used for a family with one or more children over 6 years of age shall
2 have a room or partitioned sleeping area for the ~~spouses~~ parents. The partition shall be of rigid materials
3 and installed so as to provide reasonable privacy.

4 (e) In dormitory accommodations a camp operator shall make available upon request curtains or
5 partitions to permit reasonable privacy between individual sleeping units. A ~~double~~ bunk bed shall be
6 considered an individual sleeping unit.

7 **SECTION 103.** DWD 301.07 (11) (f) 1. is renumbered DWD 301.07 (11) (fm).

8 **SECTION 104.** DWD 301.07 (11) (i) is amended to read:

9 DWD 301.07 (11) (i) Each habitable room shall have at least one window or skylight opening directly
10 to the out-of-doors- that satisfies all of the following:

11 1. The minimum total window or skylight areas in each habitable room, including windows in doors,
12 shall equal at least ~~40%~~ 10 percent of the usable floor area.

13 2. The total window area ~~which that~~ opens shall equal at least ~~45%~~ 50 percent of the minimum total
14 window or skylight area required, ~~unless comparable adequate ventilation is supplied by mechanical or~~
15 ~~some other method~~ under subd. 1.

16 **SECTION 105.** DWD 301.07 (12) is amended to read:

17 DWD 301.07 (12) SCREENING. (a) ~~All outside openings~~ Windows and doors that are used for
18 ventilation shall be protected with screening of not less than 16 mesh.

19 (b) All screen doors shall be tight fitting, in good repair, and equipped with self-closing devices.

20 **SECTION 106.** DWD 301.07 (13) (a) and (c) are amended to read:

21 DWD 301.07 (13) (a) All living quarters and service buildings shall be provided with permanently
22 installed, and operable heating equipment capable of maintaining a temperature of at least ~~68°F~~ 68 degrees
23 Fahrenheit.

1 (c) A stove or other source of heat utilizing combustible fuel shall be installed and vented in such a
2 manner as to prevent fire hazards and a dangerous concentration of gases and shall ~~be in compliance~~ comply
3 with ~~chs. SPS 361 to 365, the Wisconsin Commercial Building Code~~ commercial building code.

4 **SECTION 107.** DWD 301.07 (13) (g) and (h) are amended to read:

5 DWD 301.07 (13) (g) An ~~approved~~ vented metal collar shall be installed in accordance with the
6 manufacturer's specifications around a stovepipe, or vent passing through a wall, ceiling, floor, or roof.

7 (h) ~~If a~~ A heating system ~~has~~ may have automatic controls, ~~the control shall be of the approved type~~
8 ~~which cuts~~ only if the controls are installed in accordance with the manufacturer's specifications and the
9 controls cut off the fuel supply upon failure or interruption of the flame or ignition, or whenever a
10 predetermined safe temperature or pressure is exceeded.

11 **SECTION 108.** DWD 301.07 (14) (b), (d) and (h) are amended to read:

12 DWD 301.07 (14) (b) (b) ~~Each~~ All habitable ~~room and all rooms,~~ common use rooms, rooms
13 containing toilet facilities, and other areas, including, ~~without limitation due to enumeration:~~ laundry rooms,
14 ~~toilets,~~ hallways, and stairways, shall contain adequate ceiling or wall type light fixtures.

15 (d) Adequate lighting shall be provided for ~~the yard area,~~ areas, and pathways to common use
16 facilities.

17 (h) Public passageways, ~~stairway~~ stairways, and exit doors shall be illuminated in accordance with
18 ~~chs. SPS 361 to 365, the Wisconsin Commercial Building Code~~ commercial building code.

19 **SECTION 109.** DWD 301.07 (15) (a) and (c) are amended to read:

20 DWD 301.07 (15) (a) (a) All ~~toilet~~ rooms containing toilet facilities shall comply with the ~~applicable~~
21 ~~provisions of chs. SPS 361 to 365~~ Wisconsin commercial building code, except that privies are not
22 permitted.

23 (c) Urinals ~~of the approved type~~ installed in accordance with the manufacturer's specifications shall
24 be provided in ~~toilets~~ toilet facilities to be used by 10 or more males in the ratio of one per ~~40~~ 25 males or
25 fraction thereof.

1 **SECTION 110.** DWD 301.07 (15) (d) is renumbered DWD 301.07 (15) (d) (intro.) and amended to read:

2 DWD 301.07 (15) (d) (intro.) Except in individual family units, separate toilet accommodations
3 facilities for men and women shall be provided; and all of the following apply:

4 **SECTION 111.** DWD 301.07 (15) (d) 1. and 2. are amended to read:

5 DWD 301.07 (15) (d) 1. ~~If toilet~~ Toilet facilities for men and women that are in the same building
6 ~~they~~ shall be separated by a solid wall from floor to roof or ceiling.

7 2. ~~Toilets~~ Toilet facilities shall be distinctly marked "men" and "women" in English and in the
8 language of the persons expected to occupy the housing or marked with easily understood pictures or
9 symbols.

10 **SECTION 112.** DWD 301.07 (15) (e), (f) and (h) are amended to read:

11 DWD 301.07 (15) (e) Where common use toilet facilities are provided, an adequate and accessible
12 supply of toilet tissue, with holders shall be furnished.

13 (f) All common use ~~toilets~~ toilet facilities shall be well lighted and ventilated and shall be clean and
14 sanitary.

15 (h) ~~Toilet~~ All living quarters and service buildings shall be provided with toilet facilities shall be that
16 are located within 200 feet of each living unit.

17 **SECTION 113.** DWD 301.07 (15) (m) is repealed.

18 **SECTION 114.** DWD 301.07 (16) (a) to (d) are amended to read:

19 DWD 301.07 (16) (a) Bathing and handwashing facilities; shall be supplied with adequate hot and
20 cold water under pressure; and shall be provided for the use of all occupants.

21 (b) ~~The~~ Bathing and handwashing facilities shall be clean and sanitary and located within 200 feet of
22 each living unit.

23 (c) There shall be a minimum ratio of ~~showerheads as set forth in chs. SPS 361 and 362~~ one
24 showerhead per 8 occupants of a migrant labor camp.

1 (d) Showerheads shall be spaced at least 3 feet apart; with a minimum of 9 square feet of floor space
2 per ~~unit~~ showerhead or shall be placed in a commercially available ~~30-inch~~ 30-inch shower stall ~~(that has~~
3 an area of at least 6.25 square feet area).

4 **SECTION 115.** DWD 301.07 (16) (f) is amended to read:

5 DWD 301.07 **(16)**(f) If common use shower facilities for both sexes are located in the same building,
6 the facilities shall be separated by a solid opaque and nonabsorbent wall extending from the floor to ceiling
7 or roof, and shall be plainly designated "men" or "women" in English and in the language of the persons
8 expected to occupy the housing or marked with easily understood pictures or symbols.

9 **SECTION 116.** DWD 301.07 (16) (i) to (k) are amended to read:

10 DWD 301.07 **(16)** (i) Each shower unit for women shall be enclosed ~~with~~ as a separate compartment.

11 (j) Each shower compartment ~~for women~~ shall be supplemented by an individual dressing
12 compartment.

13 (k) Lavatories or equivalent units shall be provided in a ratio as set forth in ~~ehs. ch. SPS 361 and 362.~~

14 **SECTION 117.** DWD 301.07 (16) (L) and (o) are consolidated, renumbered DWD 301.07 (16) (L) and
15 amended to read:

16 DWD 301.07 **(16)** (L) Mechanical or automatic ~~laundry facilities,~~ washers that are supplied with
17 adequate hot and cold water under pressure; shall be provided for the use of all occupants. ~~(o) In any~~
18 ~~migrant labor camp, or laundry facility in an existing migrant labor camp, the camp operator shall provide~~
19 ~~mechanical or automatic washers~~ in the ratio of one per ~~30 persons~~ 20 occupants.

20 **SECTION 118.** DWD 301.07 (16) (p) is amended to read:

21 DWD 301.07 **(16)** (p) ~~If a mechanical washer is provided under par. (o), at~~ At least one laundry tray,
22 tub, or sink ~~per washer~~ shall be provided in each room that includes a washer.

23 **SECTION 119.** DWD 301.07 (16) (q) is repealed.

24 **SECTION 120.** DWD 301.07 (16) (r) is created to read:

1 301.07 (16) (r) Dryers shall be provided for the use of all occupants in the ratio of one per 20
2 occupants.

3 **SECTION 121.** DWD 301.07 (17) (a) (intro.) and 1. are amended to read:

4 DWD 301.07 (17) (a) (intro.) If workers or their families are permitted or required to cook in their
5 individual unit, a space shall be provided and equipped for cooking and eating. ~~Such~~ The space shall be
6 provided with all of the following:

7 1. A ~~cookstove~~ stove with an oven.

8 **SECTION 122.** DWD 301.07 (17) (a) 3. is repealed.

9 **SECTION 123.** DWD 301.07 (17) (a) 3m. is created to read:

10 DWD 301.07 (17) (a) 3m. A refrigerator maintained at 40 degrees Fahrenheit or lower and a
11 freezer maintained at zero degrees Fahrenheit or lower.

12 **SECTION 124.** DWD 301.07 (17) (a) 4. is amended to read:

13 DWD 301.07 (17) (a) 4. A table and chairs or equivalent seating and eating arrangements, ~~all~~ that are
14 commensurate with the capacity of the unit.

15 **SECTION 125.** DWD 301.07 (17) (a) 7. is created to read:

16 DWD 301.07 (17) (a) 7. Floors that consist of nonabsorbent, easily cleaned materials.

17 **SECTION 126.** DWD 301.07 (17) (b) (intro.) is amended to read:

18 DWD 301.07 (17) (b) (intro.) If workers or their families are permitted or required to cook and eat in
19 a common facility, a room or building separate from the sleeping facilities shall be provided for cooking
20 and eating. ~~Such~~ The room or building shall be provided with all of the following:

21 **SECTION 127.** DWD 301.07 (17) (b) 3. is repealed.

22 **SECTION 128.** DWD 301.07 (17) (b) 3m. is created to read:

23 DWD 301.07 (17) (b) 3m. A refrigerator maintained at 40 degrees Fahrenheit or lower and a freezer
24 maintained at zero degrees Fahrenheit or lower.

25 **SECTION 129.** DWD 301.07 (17) (b) 7. is amended to read:

1 DWD 301.07 (17) (b) 7. Floors ~~shall be~~ that consist of nonabsorbent, easily cleaned materials.

2 **SECTION 130.** DWD 301.07 (17) (d) (intro.), 1. and 7. are amended to read:

3 DWD 301.07 (17) (d) (intro.) Central mess facilities operated by or for the camp operator shall ~~be in~~
4 ~~accordance to~~ comply with all of the following:

5 1. The kitchen and dining room shall be separated from sleeping quarters and ~~toilet~~ rooms containing
6 toilet facilities.

7 7. The kitchen and dining room shall be swept daily, ~~preferably with sweeping compound to lay~~
8 ~~the dust.~~

9 **SECTION 131.** DWD 301.07 (17) (d) 7. (Note) is created to read:

10 DWD 301.07 (17) (d) 7. **Note:** The department recommends using a sweeping compound that lays
11 the dust.

12 **SECTION 132.** DWD 301.07 (17) (d) 8. is amended to read:

13 DWD 301.07 (17) (d) 8. The kitchen and dining room shall be scrubbed with hot soap suds or suitable
14 detergent at least once a week ~~and preferably more often during a rainy period.~~

15 **SECTION 133.** DWD 301.07 (17) (d) 8. (Note) is created to read:

16 DWD 301.07 (17) (d) 8. **Note:** During rainy periods, the department recommends scrubbing more
17 often than once a week.

18 **SECTION 134.** DWD 301.07 (17) (d) 16. and 19. are amended to read:

19 DWD 301.07 (17) (d) 16. Perishable foods such as meats, milk, butter, eggs, and salads shall be kept
20 under refrigeration not to exceed ~~40° F~~ 40 degrees Fahrenheit.

21 19. The wall surface adjacent to cooking areas shall be of fire-resistant material and shall comply
22 with ~~chs. SPS 361 to 365, the Wisconsin Commercial Building Code~~ commercial building code.

23 **SECTION 135.** DWD 301.07 (18) (a), (b) and (d) are amended to read:

1 DWD 301.07 (18) (a) Durable, fly tight, rodent tight, and clean containers in good condition of a
2 minimum capacity of 20 gallons, shall be provided adjacent to each housing unit for the storage of garbage
3 and other refuse.

4 (b) ~~Refuse containers~~ Containers required under par. (a) shall be provided in a minimum ratio of 1
5 per 10 persons. ~~(c) Refuse and shall be collected at least emptied when full, but not less than~~ twice a week;
6 ~~or more often if necessary.~~

7 (d) The disposal of garbage and other refuse, ~~which includes garbage,~~ shall be in accordance with
8 state and local law.

9 **SECTION 136.** DWD 301.07 (20) (bm) and (dm) are created to read:

10 DWD 301.07 (20) (bm) Sleeping facilities shall be spaced no closer than 36 inches both laterally and
11 end-to-end and shall be elevated at least 12 inches from the floor.

12 (dm) The upper decks of bunk beds shall include guardrails that comply with 16 CFR 1213.3 (a).

13 **SECTION 137.** DWD 301.07 (20) (e) is amended to read:

14 DWD 301.07 (20) (e) The clear space above the top of the lower mattress of a ~~double-deck~~ bunk bed
15 and the bottom of the upper deck shall be a minimum of 27 inches.

16 **SECTION 138.** DWD 301.07 (21) (title) is amended to read:

17 DWD 301.07 (21) (title) FIRE, SAFETY, AND FIRST AID.

18 **SECTION 139.** DWD 301.07 (21) (b) and (c) are amended to read:

19 DWD 301.07 (21) (b) Any family housing and housing units for less than 10 persons; that are of one
20 ~~story~~ one-story construction; shall have 2 means of escape.

21 (c) ~~One of the 2 required~~ Only one means of escape required under par. (b) may be a readily accessible
22 window with space of not less than ~~24 x 24~~ 24 by 24 inches ~~which~~ that may be opened.

23 **SECTION 140.** DWD 301.07 (21) (e) is amended to read:

1 DWD 301.07 (21) (e) Sleeping and common use rooms located on or above the second story shall
2 comply with the state and local fire and building codes relative to multi-story dwellings ~~except that~~ and
3 with all of the following:

4 1. On two-story buildings a modified class "A" "A" type fire escape constructed of wood may be
5 provided as a second exit serving not more than 8 persons.

6 2. The fire escape and its connectors shall be capable of supporting 100 pounds per square foot and
7 shall be fastened to the building by through bolts ~~(at of at least $\frac{7}{8}$ seven-eighth~~ inch diameter and nut and
8 washer (at nuts and washers of at least 4 inch diameter).

9 **SECTION 141.** DWD 301.07 (21) (em) 1. (intro.) and 1. a. are amended to read:

10 DWD 301.07 (21) (em) 1. (intro.) Except as provided in subd. 3., a ~~migrant~~ camp operator shall
11 install portable smoke detectors approved by the underwriters laboratory in all of the following locations:

12 a. ~~In each sleeping area of each housing unit or elsewhere in the unit~~ Except in the kitchen, within 6
13 feet of the doorway of each sleeping area ~~and not in a kitchen~~ of each housing unit.

14 **SECTION 142.** DWD 301.07 (21) (em) 2. is amended to read:

15 DWD 301.07 (21) (em) 2. Each portable smoke detector required under subd. 1. shall be installed no
16 closer than 3 ~~to~~ inches and no farther than 12 inches from the ceiling, except a camp operator may follow
17 a manufacturer's recommendation on the installation of a particular smoke detector in a different location
18 if the camp operator provides the department's migrant labor inspector with proof of the manufacturer's
19 installation recommendation at the time of the camp inspection.

20 **SECTION 143.** DWD 301.07 (21) (em) 4. is repealed.

21 **SECTION 144.** DWD 301.07 (21) (f) and (h) are amended to read:

22 DWD 301.07 (21) (f) Exit lights and signs shall be provided in accordance with ~~chs. SPS 361 to 365,~~
23 the Wisconsin Commercial Building Code commercial building code.

24 (h) Fire extinguishing equipment shall provide protection equal to a ~~2 $\frac{1}{2}$~~ 2.5 gallon stored pressure or
25 5 gallon pump type water extinguisher.

1 **SECTION 145.** DWD 301.07 (21) (i) is renumbered DWD 301.07 (21) (i) (intro.) and amended to read:

2 DWD 301.07 (21) (i) (intro.) First aid facilities consisting of at least all of the following shall be
3 provided in a ratio of one per 50 persons and shall be readily accessible for use at all times-;

4 **SECTION 146.** DWD 301.07 (21) (i) 1. to 19. are created to read:

5 DWD 301.07 (21) (i) 1. Sixteen adhesive bandages.

6 2. Two and a half yards of adhesive tape.

7 3. Ten antibiotic applications.

8 4. Ten antiseptic applications.

9 5. One breathing barrier.

10 6. One burn dressing.

11 7. Ten burn treatments.

12 8. One cold pack.

13 9. Two eye coverings with means of attachment.

14 10. One fluid ounce of eye skin wash.

15 11. Six hand sanitizers.

16 12. Two pairs of medical exam gloves.

17 13. One 2 inch by 4 yard roller bandage.

18 14. One 4 inch by 4 yard roller bandage.

19 15. One pair of scissors.

20 16. Two sterile pads.

21 17. Two trauma pads.

22 18. One triangular bandage.

23 19. Ten face masks.

24 **SECTION 147.** DWD 301.07 (21) (j) and (k) are repealed.

25 **SECTION 148.** DWD 301.07 (22) (a) and (b) are amended to read:

1 DWD 301.07 (22) (a) A camp operator or agent may establish reasonable rules relating to the
2 responsibility of ~~camp~~ occupants as to migrant labor camp occupancy and care. A copy of all such rules
3 shall be posted in the migrant labor camp where they can be easily seen by the ~~camp~~ occupants and shall
4 be given to the occupants together with the work agreement. All such rules shall be written in English and,
5 ~~if the customary language of any occupant is not English, in the language of the occupant~~ occupants if other
6 than English.

7 (b) A camp operator or agent shall do all of the following:

8 1. Clearly explain to ~~camp~~ occupants their responsibilities under any rules established under par. (a).

9 2. At least once a week inspect the migrant labor camp area, structures, toilets, showers, and other
10 facilities and ~~see~~ ensure that each is maintained in a clean and orderly condition and that broken or damaged
11 property is promptly repaired.

12 3. Designate an employee or other individual to maintain the grounds and common use facilities in a
13 clean and orderly condition at least daily, except that in migrant labor camps occupied by 100 or more
14 persons, the camp operator shall provide a full-time person or the equivalent to perform all duties required
15 under this ~~paragraph~~ subdivision during the period that the migrant labor camp is occupied.

16 4. Designate an employee or other individual ~~or employee~~ to be responsible for ~~the~~ compliance with
17 this ~~section~~ paragraph. ~~Such person's~~ and post the employee's or other individual's name shall appear on
18 ~~the material~~ with the copy of this section that is posted under sub. (24).

19 **SECTION 149.** DWD 301.07 (22) (c) (intro.), 1., 2. and 4. are amended to read:

20 DWD 301.07 (22) (c) (intro.) Each occupant ~~of a camp~~ shall do all of the following:

21 1. Use the sanitary and other facilities furnished by the migrant labor camp.

22 2. Keep in a clean and orderly manner that part of the migrant labor camp and ~~premise~~ which
23 premises that the occupant occupies or uses.

24 4. Dispose of ~~rubbish and~~ garbage and other refuse by placing it in containers provided for ~~rubbish~~
25 ~~and~~ garbage and other refuse.

1 **SECTION 150.** DWD 301.07 (23) (a) is renumbered DWD 301.07 (23) (a) (intro.) and amended to read:

2 DWD 301.07 (23) (a) (intro.) (a) All migrant labor camps including individual dwelling units shall
3 be opened to inspection ~~at all reasonable daylight hours~~ by representatives of the department- at all of the
4 following times:

5 **SECTION 151.** DWD 301.07 (23) (a) 1. and 2. are created to read:

6 DWD 301.07 (23) (a) 1. Normal daytime business hours for investigation of employers' records.

7 2. Between sunrise and sunset for investigation of all other matters.

8 **SECTION 152.** DWD 301.07 (23) (b) is amended to read:

9 DWD 301.07 (23) (b) ~~The department~~ A migrant labor inspector of the department shall make the
10 inspector's presence known to the camp operator or an adult member of the operator's immediate family
11 or the person designated as responsible for compliance with this section and to any affected occupant before
12 making an inspection.

13 **SECTION 153.** DWD 301.07 (24) is amended to read:

14 DWD 301.07 (24) POSTING OF RULES. A copy of this section prepared by the department in English,
15 and in the language of the ~~camp~~ occupants if other than English, shall be posted in the migrant labor camp
16 or where the occupants report for work in a place easily seen by the ~~camp~~ occupants. The copy shall state
17 where copies of the rules under this section may be obtained.

18 **SECTION 154.** DWD 301.075 is created to read:

19 DWD 301.075 **Disease and illness prevention and control.** (1) Camp operators, employers, and
20 migrant labor contractors shall comply with s. 252.05 (3), Stats., and, upon identification of a migrant
21 worker's case or suspected case of a communicable disease, make a report to a local health officer as
22 required under s. DHS 145.04 (3).

23 **Note:** An explanation of the communicable disease reporting requirements under s. DHS 145.04 (3)
24 is available at <https://www.dhs.wisconsin.gov/disease/reporting.htm>.

25 (2) A camp operator shall do all of the following:

1 (a) Report to a local health officer a migrant worker's case of suspected food poisoning or an unusual
2 prevalence in a migrant labor camp of any illness in which fever, diarrhea, sore throat, vomiting, jaundice,
3 productive cough, weight loss, runny nose, eye irritation, body aches, fatigue, headache, or shortness of
4 breath is a prominent symptom.

5 (b) Prohibit any individual with a communicable disease from preparing, cooking, serving, or
6 handling food, foodstuffs, or materials in any kitchen or dining room operated in connection with a migrant
7 labor camp or regularly used by occupants.

8 (c) Provide written procedures for the temporary isolation of sick or injured occupants, including
9 procedures for ensuring that, when required, space is available for the temporary isolation.

10 (d) Suitably isolate any person reasonably suspected of having a communicable disease for the
11 amount of time recommended by public health authorities.

12 **SECTION 155.** DWD 301.08 (1) is amended to read:

13 DWD 301.08 (1) ~~Drafts or checks~~ For purposes of s. 103.93 (1) (a), Stats., payment of wages by check
14 or draft includes payment by direct deposit. Checks or drafts shall be made payable to the order of
15 individual workers for whom payment is being made.

16 **SECTION 156.** DWD 301.08 (1) (Note) is created to read:

17 DWD 301.08 (1) **Note:** Section 103.91 (1) (a), Stats., requires wage to be paid in U.S. currency or by
18 check or draft.

19 **SECTION 157.** DWD 301.08 (2) is amended to read:

20 DWD 301.08 (2) ~~The term~~ For purposes of s. 103.93 (1) (b), Stats., "termination of the period of
21 employment for which the worker was employed" means includes termination by either party for whatever
22 reason.

23 **SECTION 158.** DWD 301.08 (2) (Note) is created to read:

1 DWD 301.08 (2) **Note:** Section 103.93 (1) (b), Stats., generally requires every employer to pay in
2 full all wages due any migrant worker within 3 days after the termination of the period of employment for
3 which the worker was employed. Section 103.915 (5), Stats., provides for an exception to this requirement.

4 **SECTION 159.** DWD 301.08 (3) is amended to read:

5 DWD 301.08 (3) Partial payment under s. 103.93 (1) (b), Stats., ~~shall not be allowed~~ is prohibited
6 unless the employer is unable to determine the amount of piece rate wages owed a worker because of a lack
7 of confirmation from a processor buyer.

8 **SECTION 160.** DWD 301.08 (5) is renumbered DWD 301.08 (5) (a) and amended to read:

9 DWD 301.08 (5) (a) Every employer shall furnish to each migrant worker an individual wage
10 statement for each pay period at the time of payment. A wage statement may not combine information on
11 wages earned by multiple members of a family. Wage statements shall show the amount of gross and net
12 wages paid by the employer to the worker, the number of hours worked, and the amount of and reason for
13 each deduction from the wages of the worker. A reasonable coding system may be used by an employer.

14 **SECTION 161.** DWD 301.08 (5) (b) is created to read:

15 DWD 301.08 (5) (b) If an employer electronically furnishes a migrant worker an individual wage
16 statement under par. (a), the employer shall furnish a paper copy of the statement to the migrant worker
17 upon the migrant worker's request.

18 **SECTION 162.** DWD 301.08 (6) is amended to read:

19 DWD 301.08 (6) Authorizations for deductions or withholding from wages must be specific as to the
20 amount and reason for the deduction. A general statement authorizing the employer to make deductions for
21 future loans, services, loss, or damage to property shall be invalid.

22 **SECTION 163.** DWD 301.08 (7) is repealed.

23 **SECTION 164.** DWD 301.09 (intro.) is repealed.

24 **SECTION 165.** DWD 301.09 (1) is renumbered DWD 301.09 (1m) (b) and amended to read:

25 DWD 301.09 (1m) (b) *Toilet facilities.* Toilet facilities shall be provided in the ratio of one facility
26 per every 20 workers engaged in hand labor, regardless of gender, and located within ⁴⁴ one-fourth mile of

1 each ~~employee's~~ worker's work place in the field or, if not feasible, at the closest vehicular access to the
2 work place. Toilet facilities shall have doors than can be closed and latched from the inside.

3 **SECTION 166.** DWD 301.09 (1m) (title) and (a) are created to read:

4 301.09 **(1m)** (title) OPERATIONS WITH 6 OR MORE MIGRANT WORKERS. (a) *Applicability.* This
5 subsection applies to operations where 6 or more migrant workers are engaged in hand labor.

6 **SECTION 167.** DWD 301.09 (2) (title) is renumbered DWD 301.09 (1m) (c) (title).

7 **SECTION 168.** DWD 301.09 (2) (a) is renumbered DWD 301.09 (1m) (c) and amended to read:

8 DWD 301.09 **(1m)** (c) *Handwashing facilities.* Handwashing facilities shall be provided in the ratio
9 of one facility per every 20 workers engaged in hand labor, regardless of gender, and located within ⁴ one-
10 fourth mile of each ~~employee's~~ worker's work place in the field, or if not feasible, at the closest vehicular
11 access to the work place.

12 **SECTION 169.** DWD 301.09 (2) (b) and (c) are repealed.

13 **SECTION 170.** DWD 301.09 (2m) (title) and (a) are created to read:

14 DWD 301.09 **(2m)** (title) ALL OPERATIONS. (a) *Applicability.* This subsection applies to operations
15 where any number of migrant workers are engaged in hand labor.

16 **SECTION 171.** DWD 301.09 (3) (title) is renumbered DWD 301.09 (2m) (b) (title).

17 **SECTION 172.** DWD 301.09 (3) is renumbered DWD 301.09 (2m) (b) 1. and amended to read:

18 DWD 301.09 **(2m)** (b) 1. Potable drinking water to meet ~~worker~~ the needs of workers engaged in
19 hand labor shall be provided at a readily accessible location. The water provided to the workers shall be
20 suitably cool ~~and kept in insulated containers which are clean and sanitary~~. A supply of water shall be
21 available in sufficient ~~amount to meet worker needs~~ quantity at the beginning of the work shift to provide
22 one quart per worker per hour for drinking for the entire shift. Employers may begin the shift with smaller
23 quantities of water if they have effective procedures for replenishment during the shift as needed to allow
24 workers to drink one quart or more per hour. The water shall be dispensed in single serving drinking cups
25 or water bottles. The use of common drinking cups or dippers is prohibited.

1 **SECTION 173.** DWD 301.09 (4) (title) is renumbered DWD 301.09 (1m) (d) (title).

2 **SECTION 174.** DWD 301.09 (4) (a) is renumbered DWD 301.09 (1m) (d) 1. and amended to read:

3 DWD 301.09 (1m) (d) 1. Toilet and handwashing facilities required under this subsection shall be
4 clean and sanitary and the toilet facilities shall be provided with an adequate supply of toilet paper.

5 **SECTION 175.** DWD 301.09 (4) (b) is renumbered DWD 301.09 (2m) (b) 2. and amended to read:

6 DWD 301.09 (2m) (b) 2. Potable water containers for workers in engaged in hand labor shall be
7 covered, cleaned, and refilled daily or more often as necessary.

8 **SECTION 176.** DWD 301.09 (4) (c) is renumbered DWD 301.09 (1m) (d) 2. and amended to read:

9 DWD 301.09 (1m) (d) 2. Disposal of wastes from facilities serving workers engaged in hand labor
10 shall not cause unsanitary conditions.

11 **SECTION 177.** DWD 301.09 (4) (d) is repealed.

12 **SECTION 178.** DWD 301.09 (5) is renumbered DWD 301.09 (2m) (c) and amended to read:

13 DWD 301.09 (2m) (c) *Reasonable ~~use~~ opportunity.* Workers engaged in hand labor shall be
14 allowed reasonable opportunities during the workday to hydrate and use the toilet and handwashing
15 facilities.

16 **SECTION 179.** DWD 301.09 (2m) (d) and (e) are created to read:

17 DWD 301.09 (2m) (d) *Heat illness.* 1. 'Signs or symptoms.' a. If a supervisor observes or any worker
18 reports any signs or symptoms of heat illness in any worker engaged in hand labor, the employer shall take
19 immediate action commensurate with the severity of the illness.

20 b. The employer shall implement emergency response procedures if the signs or symptoms under
21 subd. 1. a. are indicators of severe heat illness, such as decreased level of consciousness, staggering,
22 vomiting, disorientation, irrational behavior, or convulsions.

23 c. The employer shall monitor a worker engaged in hand labor who exhibits signs or symptoms of
24 heat illness and, before allowing the worker to be left alone or return to the worker's housing, provide for

1 first aid or emergency medical services in accordance with the heat illness prevention plan required under
2 subd. 2.

3 2. 'Heat illness prevention plan.' An employer shall establish, implement, and maintain, an effective
4 heat illness prevention plan. The plan shall be in writing in English and in the language of occupants if
5 other than English. The employer shall make the plan available at the migrant labor camp and, upon request,
6 to representatives of the department. The plan shall include procedures for complying with sub. (2m) (b)
7 and par. (e) and effective emergency response procedures that provide for all of the following:

8 a. Ensuring that effective communication by voice, observation, or electronic means is maintained so
9 that workers engaged in hand labor can contact a supervisor or emergency medical services when necessary.
10 An electronic device, such as a cell phone or text messaging device, may be used for this purpose only if
11 reception in the area is reliable.

12 b. Responding to signs and symptoms of possible heat illness of workers engaged in hand labor,
13 including first aid measures and procedures for providing emergency medical services.

14 c. Contacting emergency medical services and, if necessary, transporting workers engaged in hand
15 labor to a place where they can be reached by an emergency medical services provider.

16 d. Ensuring that, in emergencies, clear and precise directions to the migrant labor camp are provided
17 as needed to emergency responders.

18 (e) *Access to shade.* 1. When the outdoor temperature in a work area exceeds 80 degrees Fahrenheit,
19 an employer shall maintain one or more areas with shade at all times while workers are present that are
20 either open to the air or provided with ventilation or cooling. The amount of shade present shall be at least
21 enough to accommodate the number of workers resting or taking outdoor meals so that they can sit fully in
22 the shade in a normal posture without being in physical contact with each other. The shade shall be located
23 as close as practicable to the areas where workers are working.

1 2. When the outdoor temperature in a work area does not exceed 80 degrees Fahrenheit, an employer
2 shall either provide shade that complies with subd. 1. or provide timely access to shade upon a worker's
3 request.

4 3. An employer shall allow and encourage workers to take a preventative cool-down rest in the shade
5 at any time when they feel the need to do so to protect themselves from overheating. If a worker takes a
6 preventative cool-down rest, all of the following apply:

7 a. The worker shall be monitored and asked if the worker is experiencing symptoms of heat illness.

8 b. The worker shall be encouraged to remain in the shade.

9 c. The worker may not be ordered back to work until any signs or symptoms of heat illness have
10 abated or until 5 minutes after the worker obtained access to the shade, whichever is later.

11 4. If a worker exhibits signs or reports symptoms of heat illness while taking a preventative cool-
12 down rest under subd. 3., the employer shall provide appropriate first aid or emergency response as
13 specified in the heat illness prevention plan established under par. (d) 2.

14 5. When the outdoor temperature in a work area equals or exceeds 95 degrees Fahrenheit, an employer
15 shall implement high heat procedures that provide for all of the following to the extent practicable:

16 a. Ensuring that effective communication by voice, observation, or electronic means is maintained
17 so that workers at a work site can contact a supervisor when necessary. An electronic device, such as a cell
18 phone or text messaging device, may be used for this purpose only if reception in the area is reliable.

19 b. Observing workers for alertness and signs or symptoms of heat illness.

20 c. Designating one or more employees at each work site as authorized to call for emergency medical
21 services and allowing other employees to call for emergency medical services when no designated worker
22 is available.

23 d. Reminding workers throughout the work shift to drink plenty of water.

1 e. Pre-shift meetings before the commencement of work to review the high heat procedures,
2 encourage workers to drink plenty of water, and remind workers of their right under subd. 3. to take a
3 preventative cool-down rest when necessary.

4 **SECTION 180.** DWD 301.09 (6) (title) is repealed.

5 **SECTION 181.** DWD 301.09 (6) (a) is renumbered DWD 301.015 (13) and amended to read:

6 DWD 301.015 (13) "Hand labor" means that work ~~which that~~ is performed ~~manually~~ by hand or
7 with hand tools in the field.

8 **SECTION 182.** DWD 301.09 (6) (b) is renumbered DWD 301.015 (14) and amended to read:

9 DWD 301.015 (14) "Handwashing facility" means a facility provided with running water for
10 washing hands, arms, face, and head, including lavatories, basins, and sinks, both for cleanliness and for
11 safety purposes.

12 **SECTION 183.** DWD 301.09 (6) (c) and (d) are repealed.

13 **SECTION 184.** DWD 301.09 (6) (e) is renumbered DWD 301.015 (24).

14 **SECTION 185.** DWD 301.09 (6) (f) is repealed.

15 **SECTION 186.** DWD 301.09 (7) (a), (b) and (c) are amended to read:

16 DWD 301.09 (7) (a) The department may, upon written application by a camp operator on a form
17 prescribed by the department and after inspection by a migrant labor inspector of the department, grant a
18 variance to a provision of this section if ~~if~~ the department determines that the application provides for an
19 equivalency is established in the petition for variance which that meets the intent of the provision ~~involved~~.
20 A variance is not effective until granted in writing by the department.

21 (b) An equivalency is established for the purposes of par. (a) when appropriate alternative measures
22 have been taken to protect the health and safety of workers and to assure that the purpose of the provision
23 from which the variance is sought will be ~~observed~~ accomplished.

24 (c) A variance issued under this subsection may be either temporary or permanent. In granting a
25 variance, the department may impose specific conditions to promote the protection of the health, safety,
26 and welfare of the workers. Violation of any condition under which a ~~petition~~ variance is granted constitutes

1 a violation of this chapter for which ~~a compliance order may be issued or a variance may be revoked~~ the
2 department may revoke the variance or seek enforcement under s. 103.905 (5), Stats.

3 **SECTION 187.** DWD 301.09 (7) (d) is repealed.

4 **SECTION 188.** DWD 301.13 (1) is amended to read:

5 DWD 301.13 (1) PURPOSE. This section applies to post-occupancy inspections of migrant labor
6 camps and other situations in which the department determines that a violation of ~~the statutes or the~~
7 ~~administrative rules~~ ss. 103.90 to 103.97, Stats., or this chapter has taken place. The intent of this section is
8 to supplement the system of ~~code enforcement~~ under s. 103.97, Stats., that is based on citations taken to
9 court with a system based on administrative assessment of penalty fees. A ~~penalty fee~~ system based on
10 administrative assessment of penalty fees enables the department to focus on violations that are serious and
11 base the size of the fee on the degree of danger created by the violation.

12 **SECTION 189.** DWD 301.13 (1) (Note) is renumbered DWD 301.13 (2) and amended to read:

13 DWD 301.13 (2) **Note:** Section 103.965 (1), Stats., provides that in most cases there ~~shall be~~ is a
14 correction period for ~~migrant code violation~~ violations: ~~“(If~~ Except as provided in [s.103.965 (2), Stats.],
15 if the department determines that any person has violated ss. 103.90 to 103.97 the person shall have a
16 reasonable time, not to exceed 15 days from the day he or she receives notice of the violation, to correct
17 the violation. If the violation is corrected within that period, no penalty may be imposed under
18 s. 103.97.” ~~The violation penalty fees in this section of the code will apply only to violations that are not~~
19 ~~corrected within the specified correction period.~~ Section 103.965 (2), Stats., specifies violations for which
20 there is no correction period.

21 **SECTION 190.** DWD 301.13 (2) is amended to read:

22 DWD 301.13 (2) ISSUANCE. ~~A~~ Subject to sub. (3), the department may issue a penalty fee
23 assessment may be issued by the migrant services bureau director or the director’s designee for a violation
24 of ss. 103.90 to 103.97, Stats., or this chapter that is not corrected within a correction period specified in s.
25 103.965 (1), Stats.

1 **SECTION 191.** DWD 301.13 (3) (a) and (b) are consolidated, renumbered DWD 301.13 (3) and amended
2 to read:

3 DWD 301.13 (3) SEVERITY OF RISK. ~~Code violations~~ Violations of ss. 103.90 to 103.97, Stats., and
4 this chapter shall be rated on a severity scale of high, medium, and low. ~~(b)~~ A high severity violation may
5 result in a penalty fee assessment of no more than \$1,000.00. A medium severity violation may result in a
6 penalty fee assessment of no more than \$500.00. A low severity violation may result in a penalty fee
7 assessment of no more than \$250.00.

8 **SECTION 192.** DWD 301.13 (4) is repealed.

9 **SECTION 193.** DWD 301.13 (5) is repealed and recreated to read:3

10 DWD 301.13 (5) ADMINISTRATIVE REVIEW. Any person who wishes to contest the issuance of a
11 penalty fee assessment under sub. (2) may, within 30 days after the date of the issuance, file a written
12 request for hearing under s. DWD 301.135.

13 **SECTION 194.** DWD 301.135 is created to read:

14 DWD 301.135 **Hearings.** (1) A person shall serve a written request for a hearing under s. DWD
15 301.05 (1) (c), 301.07 (1) (aw), or 301.13 (5) on the department by personal delivery or certified mail to
16 the office of the secretary of the department.

17 **Note:** For personal delivery, the office of secretary is located at 201 East Washington Avenue,
18 Madison, Wisconsin 53703. For certified mail, the mailing address of the office of secretary is P.O. Box
19 7946, Madison, Wisconsin 53707.

20 (2) Within 10 days of receipt of a request for a hearing, the department shall designate a hearing
21 officer to preside over the hearing. The hearing officer shall give reasonable notice of the hearing by
22 registered mail, return receipt requested, to the department and the person requesting the hearing. The notice
23 shall include all of the following:

24 (a) A reasonable time and place of hearing.

1 (b) A statement of the provisions of this chapter or ss. 103.90 to 103.97, Stats., that are the basis of
2 the action to be contested at the hearing.

3 (3) The procedures under ch. 227, Stats., shall apply to the disposition of the request for hearing,
4 except that all of the following apply:

5 (a) The hearing officer shall receive, and make part of the record, documentary evidence offered by
6 any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the
7 documentary evidence to any party to the hearing upon request.

8 (b) Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but
9 rules or principles designed to assure production of the most credible evidence available and to subject
10 testimony to test by cross-examination shall be applied, where reasonably necessary, by the hearing officer
11 conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious
12 evidence.

13 (c) The hearing officer shall issue a written decision within 30 days of the close of the hearing record.
14 The hearing officer's decision constitutes final agency action.

15 **SECTION 195.** DWD 301.14 is amended to read:

16 DWD 301.14 **Posting of migrant worker rights.** A summary of the provisions of this chapter
17 shall be posted in a conspicuous place in all migrant labor camps or where the occupants report for work
18 in a place easily seen by the ~~camp~~ occupants. The posting shall be on a form prescribed by the department
19 and shall be in English and in the language of the ~~camp~~ occupants if other than English.

20 **SECTION 196.** DWD 301.14 (Note) is repealed and recreated to read:

21 DWD 301.14 **Note:** The required posting may be obtained at
22 <https://dwd.wisconsin.gov/jobservice/MSFW/forms.htm> or from the Department of Workforce
23 Development, Migrant and Seasonal Farmworker Programs, Dane County Job Service, 1819 Aberg
24 Avenue, Ste. C, Madison, WI 53704. Email address: MSFW@dwd.wisconsin.gov. For other posting
25 requirements, see ss. DWD 301.07 (1) (g) (certificate to operate migrant labor camp), 301.07 (8) (f) 3.

1 (pesticide application notice), 301.07 (22) (a) (migrant labor camp's occupancy and care rules), 301.07 (22)
2 (b) 4. (name of employee or other individual responsible for complying with s. DWD 301.07 (22) (b)), and
3 301.07 (24) (copy of s. DWD 301.07 rules). In addition, the posting requirement for nitrate maximum
4 contaminant levels under s. NR 809.11 (3) (b) applies to a camp operator who is required under s. DWD
5 307.07 (9) (ar) 2. to demonstrate that the requirements of s. NR 809.11 (3) (a) to (e) are satisfied.

6 **SECTION 197. EFFECTIVE DATE.** This rule takes effect on the first day of the month following
7 publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Signed this _____ day of _____, 2022.

Amy Pechacek, Secretary-designee