

CR 92-49

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

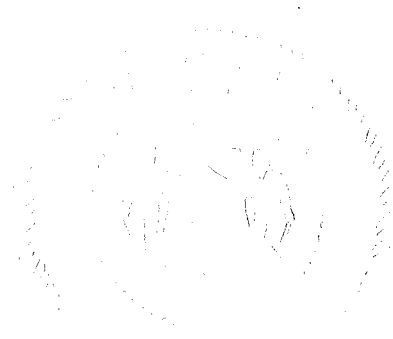
I, Carol Skornicka, Secretary of the Department of Industry,
Labor and Human Relations, and custodian of the official records of said department, do hereby certify that
the annexed rule(s) relating to Migrant Labor Camp Standards
(Subject)

were duly approved and adopted by this department on December 22, 1992
(Date)

I further certify that said copy has been compared by me with the original on file in the department
and that the same is a true copy thereof, and of the whole of such original.

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DEC 22 1992
4:25 pm
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IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the official seal of the
department at 1:00 p.m.
in the city of Madison, this 22nd
day of December A.D. 19 92

Carol Skornicka
Secretary

3-1-93

ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s)

103.905 (1)

Stats., the Department of Industry, Labor and Human Relations creates; amends;

repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code chapter(s):

ILHR 301

(Number)

Migrant Labor Camp Standards

(Title)

The attached rules shall take effect on Publication

pursuant to section 227.22, Stats.

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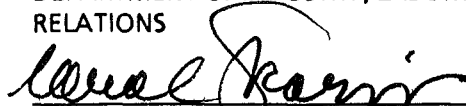
DEC 22 1992

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Adopted at Madison, Wisconsin this

date: December 22, 1992

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN
RELATIONS


Secretary



State of Wisconsin \ Department of Industry, Labor and Human Relations

RULES in FINAL DRAFT FORM

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DEC 22 1992

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Rule No.: ILHR 301

Relating to: Migrant Labor Camp Standards

ILHR 301

RULES RELATING TO MIGRANT LABOR CAMPS

The Wisconsin Department of Industry, Labor and Human Relations proposes an order to repeal Ind 201.07(11)(bm), (cm), (cn), and (gm), (13)(b) and (d), (14)(c), (15)(c)1 and (i) to (L), and (16)(m) and (n); to renumber ch. Ind 201(title), Ind 201.01 to 201.06 and 201.07(1) to (6), (8), (11)(a), (b) and (d) to (g), (12), (13)(c) and (e) to (h), (14)(a), (b), (d), and (f) to (h), (15)(c)2, (d) and (e), (16)(a) to (k), (18) to (20), and (22) to (24), and 201.08; to renumber and amend Ind 201.07(7), (9), (10), (11)(c), (h), and (i), (13)(a), (14)(e), (15)(a), (b), (c)(intro.), (f), (g), and (m), (16)(L) and (o) to (q), (17), (21)(m), and 201.09; and to create ILHR 301.11, relating to requirements for migrant labor camps.

Analysis

This proposed rule makes revisions to the housing standards applicable to migrant labor camps. The revisions have been approved and recommended by the Wisconsin Council on Migrant Labor, based on a report by the Council's Housing Standards Committee. The basic change made is to remove a number of exceptions to housing code requirements which grandfathered housing units that were built before May 1, 1978 (in some cases) or January 1, 1979.

The exceptions that are removed involve space requirements, ceiling height, water closets, electricity, lighting, windows and the provision of washing machines and sinks with hot and cold running water.

The rule creates a new provision which establishes compliance dates for housing units whose excepted or grandfathered status has been removed. The compliance date for meeting space requirements is January 1, 1996; the compliance date for meeting all other requirements is January 1, 1993.

The rule also makes some technical amendments and renumbers the administrative code chapter on migrant labor from Ind 201 to ILHR 301, to conform with the current numbering system for DILHR rules.

SECTION 1. Chapter Ind 201 (title), Ind 201.01 to 201.06 and 201.07 (1) to (6) are renumbered ch. ILHR 301 (title), ILHR 301.01 to 301.06 and 301.07 (1) to (6).

SECTION 2. Ind 201.07(7) is renumbered ILHR 301.07(7) and amended to read:

ILHR 301.07(7) VARIANCES. (a) The department may, upon written application by a camp operator and inspection by a migrant labor inspector, grant written permission to individual camp operators to vary temporarily from particular provisions set forth in this section, which ~~variation~~ variance may not extend beyond March 31 of the year immediately following the year of approval, if the extent of the ~~variation~~ variance is clearly specified and if the camp operator demonstrates to the department that:

1. A ~~variation~~ variance is necessary to obtain a beneficial use of an existing facility; *i*

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

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

1. The camp operator satisfies the requirements of par. (a)1 and 2.

2. Appropriate alternative measures have been taken to protect the health and safety of the occupants and to assure that the

purpose of the provisions from which ~~variation~~ variance is sought will be observed.

(c) Written application for a ~~variation~~ variance under this subsection shall be filed with the department ~~on Form SB-8~~. A ~~variation~~ variance shall not be effective until granted in writing by the department.

NOTE: The application form for a variance may be obtained by request from the Bureau of Migrant Services, P.O.Box 7903, Madison WI 53707.

SECTION 3. Ind 201.07(8) is renumbered ILHR 301.07(8).

SECTION 4. Ind 201.07(9) is renumbered ILHR 301.07(9) and, as renumbered, ILHR 301.07(9)(a)2 a, b and (9)(b) are amended to read:

ILHR 301.07(9)(a)2.a. A notice is posted at each water outlet, and actual notice is provided, in language understandable by the camp occupants, stating that the water may be hazardous to the health of infants under 6 months of age and to pregnant women; and

b. A supply of water containing a nitrate-nitrogen level not exceeding 10 milligrams per litre is provided for ~~infant~~ consumption by infants and pregnant women and the notice informs the camp occupants that this supply of water for infants and pregnant women is available.

ILHR 301.07(9)(b) A cold water tap independent of laundry facilities shall be available within 100 feet of each individual living unit when water is not provided in the unit under s. ILHR 301.11(1)(d).

SECTION 5. Ind 201.07(10) is renumbered ILHR 301.07(10) and, as renumbered, ILHR 301.07(10)(d) is amended to read:

ILHR 301.07(10)(d) If public sewers are not available, a subsurface septic tank, seepage system or other type of liquid waste treatment and disposal system, ~~privies or portable toilets,~~ shall be provided.

SECTION 6. Ind 201.07(11)(a) and (b) are renumbered ILHR 301.07(11)(a) and (b).

SECTION 7. Ind 201.07(11)(bm) is repealed.

SECTION 8. Ind 201.07(11)(c) is renumbered ILHR 301.07(11)(c) and, as renumbered, ILHR 301.07(11)(c)(intro.) is amended to read:

Ind 210.07(11)(c)(intro.) ~~For new housing and major modification of existing housing begun on or after January 1, 1979, the~~ The following space requirements shall be provided met:

SECTION 9. Ind 201.07(11)(cm) and (cn) are repealed.

SECTION 10. Ind 201.07(11)(d) to (g) is renumbered ILHR 301.07(11)(d) to (g).

SECTION 11. Ind 201.07(11)(gm) is repealed.

SECTION 12. Ind 201.07(11)(h) is renumbered ILHR 301.07(11)(h) and amended to read:

ILHR 301.07(11)(h) ~~After January 1, 1979, the~~ The floor area in each living unit shall have a minimum ceiling height of 7 feet.

SECTION 13. Ind 201.07(11)(i) is renumbered ILHR 301.07(11)(i) and, as renumbered, ILHR 301.07(11)(i)(intro.) is amended to read:

ILHR 301.07(11)(i)(intro.) Each habitable room ~~(not including partitioned areas)~~ shall have at least one window or skylight opening directly to the out-of-doors.

SECTION 14. Ind 201.07(12) is renumbered ILHR 301.07(12).

SECTION 15. Ind 201.07(13)(a), (c) and (e) to (h) are renumbered ILHR 301.07(13)(a), (c) and (e) to (h) and, as renumbered, ILHR 301.07(13)(a) is amended to read:

ILHR 301.07(13)(a) All living quarters and service buildings shall be provided with ~~properly~~ permanently installed, operable heating equipment capable of maintaining a temperature of at

least 70° F. ~~if, during the period of normal occupancy, the temperature in such quarters falls below 70°.~~

SECTION 16. Ind 201.07(13)(b) and (d) are repealed.

SECTION 17. Ind 201.07(14)(a), (b) and (d) to (h) are renumbered ILHR 301.07(14)((a), (b) and (d) to (h) and, as renumbered, ILHR 301.07(14)(e) is amended to read:

ILHR 301.07(14)(e) All electrical wiring and lighting fixtures shall be installed and maintained in a safe condition and shall comply with the provisions of ~~the Wis. Adm. Code, Electrical Vol. II except as provided under par. (e)~~ ch. ILHR 16.

SECTION 18. Ind 201.07(14)(c) is repealed.

SECTION 19. Ind 201.07(15)(a), (b) and (c)(intro.) are renumbered ILHR 301.07(15)(a), (b) and (c)(intro.) and amended to read:

ILHR 301.07(15)(a) All toilet rooms shall comply with the applicable provisions of ~~the chs. ILHR 50-64, Building and Heating, Ventilating and Air Conditioning~~ except that privies for single family use need not be provided with artificial light are not permitted.

(b) Water closets ~~or privy seats~~ for each sex shall be in the ratio of not less than one such unit for each 15 occupants, with a minimum of one unit for each sex in common use facilities.

(c) (intro.) Urinals of the approved type shall be provided in toilets ~~and privies~~ to be used by 10 or more males in the ratio of one per 40 males or fraction thereof.

SECTION 20. Ind 201.07(15)(c)1 is repealed.

SECTION 21. Ind 201.07(15)(c)2 and (d) to (h) are renumbered ILHR 301.07(15)(c)2 and (d) to (h) and, as renumbered, ILHR 301.07(15)(f) and (g) are amended to read:

ILHR 301.07(15)(f) ~~Common~~ All common use toilets ~~and privies~~ shall be well lighted and ventilated and shall be clean and sanitary.

(g) ~~All interior surfaces of privies including toilet~~ Toilet seats shall be of impervious material or shall be well painted or varnished.

SECTION 22. Ind 201.07(15)(i) to (L) are repealed.

SECTION 23. Ind 201.07(15)(m) is renumbered ILHR 301.07(15)(m) and amended to read:

ILHR 301.07(15)(m) Service facilities and existing facilities constructed and existing facilities converted to housing for migrants ~~after May 1, 1978~~ shall have water closets.

SECTION 24. Ind 201.07(16)(a) to (L) are renumbered ILHR 301.07(16)(a) to (L) and, as renumbered, ILHR 301.07(16)(L) is amended to read:

ILHR 301.07(16)(L) ~~Laundry~~ Mechanical or automatic laundry facilities, supplied with adequate hot and cold water under pressure, shall be provided for the use of all occupants.

SECTION 25. Ind 201.07(16)(m) and (n) are repealed.

SECTION 26. Ind 201.07(16)(o) to (q) are renumbered ILHR 301.07(16)(o) to (q) and amended to read:

ILHR 301.07(16)(o) In any migrant labor camp, or laundry facility in an existing migrant labor camp, ~~constructed after May 1, 1978,~~ the camp operator shall provide mechanical or automatic washers in the ratio of one per 30 persons.

(p) If a ~~nonautomatic~~ mechanical washer is provided under par. ~~(n)~~ ~~or~~ (o), at least one laundry tray, tub or sink per washer shall be provided.

(q) If an automatic washer is provided under par. ~~(n)~~ ~~or~~ (o), at least one laundry tray, tub or sink shall be provided per facility.

SECTION 27. Ind 201.07(17) is renumbered ILHR 301.07(17) and, as renumbered, ILHR 301.07(17)(a)6 is amended to read:

ILHR 301.07(17)(a)6 An adequate sink with hot and cold water under pressure ~~in construction of new housing facilities, and~~

~~existing facilities converted into housing for migrant workers after May 1, 1978.~~

SECTION 28. Ind 201.07(18) to (24) are renumbered ILHR 301.07(18) to (24) and, as renumbered, ILHR 301.07(21)(m) is amended to read:

ILHR 301.07(21)(m) Agricultural pesticides and toxic chemicals may not be stored in the housing area ~~during the period of occupancy.~~

SECTION 29. Ind 201.08 and 201.09 are renumbered ILHR 301.08 and 301.09 and, as renumbered, ILHR 301.09(7)(a) is amended to read:

ILHR 301.09(7)(a) The department may, upon written application by a camp operator and after inspection by a migrant labor inspector, grant a variance to a provision of this section if it determines that an equivalency is established in the petition for variance which meets the intent of the provision involved.

SECTION 30. ILHR 301.11 is created to read:

ILHR 301.11 COMPLIANCE DATES. A unit which was previously grandfathered or exempted from a requirement under this chapter shall have the following deadlines for compliance with the provisions of this chapter:

(1) JANUARY 1, 1993. (a) Ceiling height. A unit constructed before January 1, 1979, shall comply with s. ILHR 301.07(11)(h) by January 1, 1993.

(b) Toilet facilities. A unit constructed before May 1, 1978, shall comply with s. ILHR 301.07(15) by January 1, 1993.

(c) Washers. A unit constructed before May 1, 1978, shall comply with s. ILHR 301.07(16) by January 1, 1993.

(d) Sinks with hot and cold water. A unit constructed before May 1, 1978, shall comply with s. ILHR 301.07(17)(a)6 by January 1, 1993.

(e) Heaters. A unit which was formerly not required to have permanently installed heating equipment shall comply with s. ILHR 301.07(13) by January 1, 1993.

(f) Electrical wiring and fixtures. A unit which was formerly not required to have wall electrical outlets in compliance with ch. ILHR 16 shall comply with s. ILHR 301.07(14)(e) by January 1, 1993.

(g) Other provisions. A unit which was formerly not required to meet some or all of the requirements of any of the following code provisions shall comply with the provision by January 1, 1993:

1. s. ILHR 301.07(11)(i) window or skylight
2. s. ILHR 301.07(14)(e) electricity and lighting

(2) JANUARY 1, 1996 - SQUARE FOOTAGE. A unit constructed before January 1, 1979, shall comply with s. ILHR 301.07(11)(c) by January 1, 1996.

(3) VARIANCES. (a) After January 1, 1993, a camp owner or operator may file a written request for a variance from a compliance requirement if the request involves the requirements for toilet facilities, sinks with hot and cold water, or heaters.

(b) The department may grant a variance under this section if all of the following requirements are met:

1. The camp owner or operator has state-approved plans to rebuild or replace the units involved.

2. The camp owner or operator has a financial plan to accomplish the rebuilding or replacement, which includes a financial commitment during 1993.

3. The camp owner or operator can show economic hardship.

(c) A variance that is granted under this section shall be revoked if the camp owner or operator does not begin construction before January 1, 1994.

(d) A variance that is granted under this section shall be revoked if the camp owner or operator does not complete construction for occupancy by January 1, 1996.

(e) If the department revokes a variance for a new or rebuilt camp under par. (d), the old camp is not eligible for certification under s. ILHR 301.07.

NOTE: This section is not intended to prevent a camp operator from asking for certification of a portion of the living units in a camp. In such a case, DILHR will certify those units that meet the code and will "red tag" all other units.

SECTION 31. APPLICABILITY. The changes made in this rule shall apply to the certification of migrant labor camps on and after April 1, 1993.

SECTION 32. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

(End)

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MINUTES
WISCONSIN COUNCIL ON MIGRANT LABOR
415 NW, State Capitol
Madison, WI
September 18, 1992

Call to Order/Roll Call, 10:00 a.m.

MEMBERS PRESENT

Sen. Brian Burke
Rep. Robert Welch
Rep. Peter Bock
Cecelia Berth
John Ebbott
Lupe Martinez
John Knoch

Mark Gross
Richard Lentz
Rosa Guerrero
Brad Kolpin
Maritza Morales Verstegen
Dean Zuleger

MEMBERS ABSENT

Sen. Joseph Leean
Lyle Mathwich
Paul Hedrick Jr.

PRESIDING OFFICER: Rep. Robert Welch

APPROVAL OF MINUTES: (July 17, 1992 Meeting)

Brad Kolpin stated that he had additions to the minutes, on page #12, where the council discussion resulted in the statement that approximately 1,000 housing units would need to be replaced, and also at page #12, where the council discussion resulted in the statement that the estimated cost of these units was approximately \$25 million dollars.

Mr. Kolpin requested that the minutes reflect that there was discussion on these points, and that the council had arrived at some numbers.

Rep. Robert Welch stated that the Executive Secretary should go back to the tapes of the last meeting, and pull out the discussion of the two points, and bring the minutes back to the next meeting so this can be reflected.

The approval of the minutes was put aside until the next meeting.

OLD BUSINESS

(Rep. Robert Welch stated that there was a request to move agenda #5 up to the agenda as #2, and there was no objection. John Ebbott requested to add, under "new business", discussion of the migrant labor council's coordination with the Unemployment Compensation Advisory Council, and there was no objection).

1. Review of Division of Health Pesticide Information/Ag. 29 Discussion.
Ed Bergman stated that he was with the Pesticide Program of the Department of Agriculture, Trade and Consumer Protection (DATCP), which is the primary agency that deals with regulation of use, handling, distribution, and misuse of pesticides in the state.

Mr. Bergman stated that in addition to this regulation, DATCP also has a cooperative agreement with the Environmental Protection Agency (EPA) to enforce the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Mr. Bergman stated that the reason he was asked to be here today is because he understands the council is discussing pesticide related issues and migrant workers.

Mr. Bergman stated that he wanted to bring to the attention of the council that the Federal EPA has promulgated, as of August 13, 1992, worker protection standards. These are a revision of existing standards, and deal with a lot of the issues that the council has discussed, and distributed a copy summarizing the worker protection standards to the council.

Mr. Bergman stated that these standards deal basically with label revisions of pesticide products, which will require more personal protection equipment for the worker in the field. These label changes will be required to be in place by 1995, but will start coming in place in April, 1993.

Mr. Bergman stated that these changes also require that supervisors and employers train and provide information to workers on applications of pesticides, provide personal protection equipment, clean equipment, post signs, and a few other requirements.

Mr. Bergman stated that he assumed that DATCP would provide a "Train the Trainer" program as it relates to the employer training the workers, as EPA has offered incentive monies for DATCP to assist with the development of materials:

John Ebbott asked if the new measures addressed exposures in the housing units in a migrant camp or the work place, and Ed Bergman stated that the rule specifically covers in the scope of the act, those pesticides involved in the production of agricultural plants on farms, forests, nurseries, and greenhouses, so it does not deal with a buffer zone between treated fields and the housing. Mr. Bergman stated that structural treatment of that housing would not be an agricultural application, however, there are provisions in the rule if there is overspray or drift onto any private property that endangers humans or the environment. In these cases, there is an investigation for illegal applications under Ch. 94 and Ag. 29, as well as federal law.

Ed Bergman added that the labeling on pesticide products, and the worker protection standards and the personal protective equipment that will be included on the label, under both state and federal law, is equivalent of law. A violation of those provisions on the label, is a violation of state and federal law.

The provisions on the label that establish re-entry interval and personal protective equipment and other factors relating to worker protection, are based on chemical toxicity.

Rep. Robert Welch stated that Jay Goldring of the State Division of Health was also present at the meeting to answer any questions on his submitted report on pesticide toxicity.

John Ebbott stated that, with regards to the health effects of pesticides used by some of Wisconsin's farms, many of the chronic effects seem to be unsettled, as the phrasing is "may", and asked if it was accurate to say that some effects are not ascertained and also that there is a fair amount of debate, regarding the chronic effects of these pesticides, still going on.

Ed Bergman stated that EPA registers pesticide products, and they register those under certain conditions and requirements. All active ingredients have been registered sometime from the early 1950's.

EPA is currently under a registration standard review of all active ingredients. Chronic toxicity data is now required of products, and that data will be submitted on all active ingredients, however, this review will not be accomplished until after the year 2,000, so there is a void in chronic toxicity data currently with respect to many active ingredients.

Lupe Martinez asked how many DATCP inspectors there were to investigate pesticide complaints, and Ed Bergman stated that they currently have 14 field staff that respond to complaints from the general public or the affected parties. Mr. Bergman stated that the complaints are usually called in to DATCP on a 24-hour phone line (266-2295).

Mr. Bergman stated that DATCP responds to complaints by conducting an investigation against the person misusing the pesticide, with a time frame based on a harm evaluation priority.

The council thanked Mr. Bergman and Mr. Goldring for their documents and the presentation.

2. Council Review of ILHR 301.

Rep. Robert Welch, for the purposes of the council and the audience, wanted to state what had happened at the last meeting that puts the council on the agenda still, as it regards ILHR 301.

Rep. Welch stated that the council, at its Wautoma meeting, heard a lot of testimony regarding the square footage requirement and the lack of funding sources to do the upgrade.

Rep. Welch stated that the council was under the impression that they should re-look at this issue to see if there was anything that needed to be done. One concern that particularly came to Rep. Welch's attention and that he was concerned about, was the possibility that

some of the employers might be switching from family units to single units, and the social costs of that was something that the council had not considered.

Rep. Welch added that, subsequent to that, he called a meeting with the housing people (UMOS, La Raza, WHEDA, FMHA, State Division of Housing) to try to come up with some funding sources and some housing projects, a couple of which seemed quite optimistic.

Rep. Welch stated that he wanted to start the discussion by bringing the council members up to date on those housing funding proposals.

Bob Sauer of UMOS stated that they had a program in the works, which at the moment is stalled due to some funding considerations and due to the outcome of this meeting, that they feel can be viable.

Mr. Sauer stated that UMOS would be able to lease refurbished mobile units to growers/canners at a very minimal rate, and only for the dates that they need the units. The units would be in compliance with all the regulations.

Mr. Sauer stated that the only investment that they saw a canner/grower making would be in the site where the unit would be located.

Mr. Sauer added that this program was "on hold" awaiting the meeting's outcome to see what the demand for the units is going to be. If the demand is there, they will go ahead, if its not, they will not.

Lupe Martinez stated that this program was simply a response to some of the concerns that were expressed regarding the administrative code changes. Mr. Martinez stated that this program was an option to look at if growers/canners choose to look. Mr. Martinez added that there are other options to look at, although limited, and this is just one such option.

Brad Kolpin asked what the costs involved were with this program, and Bob Sauer stated that it was dependent on the number of units going to a given location, some where between \$7.50 and \$20.00 per unit per day, with an assumption of a 4-5 person capacity per unit.

Peter Bock asked how many units would be available for use, and Bob Sauer stated that within the next 12 months, UMOS has reason to believe that they could produce close to 200 units, all meeting requirements.

John Knoch asked if Bob Sauer could provide a little more information regarding the program as far as a contract that the camp operator signs with UMOS, and Bob Sauer stated that indeed a contract would be signed. Mr. Sauer stated that there would be flexibility because UMOS knows some workers arrive early, others leave late, the crops are early/late, etc.

John Knoch stated that, basically, the camp operator needs to have a site prepared to set the mobile home (permanent or on wheels) on, so that the camp operator is providing the electric service, sewer, and water and Mr. Sauer agreed.

Bob Sauer stated that the mobile homes had to be kept in a mobile situation, unless somebody is going to need a number of them for a foreseen extended period of time.

John Knoch stated that he did not know how this applies to the recent law that was passed regarding the new rules, but would think that most of the zoning laws would say that this could not happen, unless the recent legislation would override that, but maybe not.

Mr. Knoch stated that this would be something that needs to be looked at because this would be replacing existing housing because of the upgrade.

John Ebbott stated that Bob Sauer had said something about this program being stalled due to the outcome of this meeting, and asked if there was any indication from working with employers regarding this proposal on whether its success depends on the adoption of the requirements of ILHR 301 as proposed, and if the rules are not adopted, does the program look like it will fall through?

John Bauknecht of UMOS indicated that generally, people in the industry are taking a wait-and-see attitude to see what they have to comply with in terms of rules.

Dean Zuleger asked if the mobile homes to be used will be residential or construction, as he had heard that they will be units that have been used at construction sites, and Bob Sauer stated that the units are residential, and in most cases, are trade-ins on upgrades by mobile home parks and private individuals.

Howard Bernstein, DILHR Counsel, stated that, in regards to the mobile homes in this program, the wording of the new law is broad enough to make it clear that they are covered by this protection from local zoning, as the law covers not only repair, but also expansion.

Rep. Robert Welch asked if you have an old septic system, pre-1980, and you want to tear down the old house and put in a mobile home, is this going to be exempt from zoning?

Howard Bernstein stated that he would not guarantee that, as the septic systems come under different statutes and is not considered zoning. Mr. Bernstein stated that he thought those rules would still apply separately, and probably have to deal with the county.

Sen. Brian Burke stated that it was ironic that the needed waiver statute, whose impetus came from the discussion of the rule changes, has already been introduced, approved by both houses, and signed by the Governor, and we are still considering rule changes.

Sen. Burke asked when will the rule changes, assuming the council acts on them today and approve them unamended, be submitted to the standing committees of the legislature?

Howard Bernstein stated that we are at the end of the process, assuming that everything is approved, we are at the point of, when something is approved by the council, of DILHR immediately sending the rules to the standing committees, followed by the 30-day review period, and the final adoption.

Sen. Burke asked if the standing committees would have the rules in the next several weeks, and Mr. Bernstein answered yes, as he did not imagine any further delay.

John Ebbott asked if there was an up-date on the efforts of WHEDA and other possible funding sources for migrant housing, and Rep. Robert Welch discussed the housing funding proposals.

Rep. Welch stated that the discussion at the meeting with the housing people tended to focus on proposals from UMOS and La Raza. Rep. Welch stated that WHEDA was there, and quite frankly, does not have a lot to offer; the State Division of Housing was there, and they have some possibilities, maybe grants to help UMOS implement their program, but beyond that not a lot; perhaps, if some farmers got together and put in a proposal and see what they could do with it, but there is nothing proactive that they can put out there;

La Raza had a main proposal that they are working with the Department of Labor and Farmer's Home Administration (FMHA).

Rep. Welch stated that FMHA has 1% loans available for permanent construction, and have no money in the pot now, but anticipate having sufficient funds very soon. This is a program that is available, out there, and most farmers should qualify. This program seems to fit the bill if you are looking at permanent type housing. This is not proactive, and one would have to apply and go through all the paper work.

John Ebbott stated that his recollection is that both La Raza and UMOS have indicated that they could provide technical assistance in putting an application together, and assumed that DOL-FMHA could also provide such assistance.

Lupe Martinez stated that one of the things that they are doing as organizations is attempting to use their non-profit status to benefit the growers, who are profit making.

Mr. Martinez stated that one of the approaches that UMOS is proposing now, the mobile homes, is not really the preferred way because it is a temporary measure.

Mr. Martinez stated that they have met, on three occasions, with the Federal Housing and Urban Development (HUD), and FMHA, and just this week, UMOS staff is meeting with HUD people. Mr. Martinez stated that specific recommendations have been drafted by UMOS staff and submitted through the committee dealing with low/moderate income farm workers.

Mr. Martinez stated that some of the recommendations that they made were very specific, and would benefit the agricultural industry here in the State of Wisconsin, and indirectly benefit the migrant workers.

Mr. Martinez hopes good things come out of these meetings as HUD Secretary Jack Kemp is pursuing these things aggressively, as HUD has not done a lot for migrant workers.

Mr. Martinez stated that there are certain things that non-profits can access, in terms of monies, that employers cannot.

Mr. Martinez stated if they bring in monies, usually it's very low-interest loans or grants that do not have to be paid.

Dean Zuleger asked how the relationship would work with the farmer if UMOS brought these monies in, and Lupe Martinez mentioned the provision of technical assistance to farmers.

Mr. Martinez stated that they have presented a project to FMHA involving the Aurora Center, which at present is an emergency shelter, but are talking to them about converting it to something more, perhaps a place where migrants can stay while they are working for an employer, and the responsibility shifts from the employer to the non-profit.

Dean Zuleger asked what the reaction of the state FMHA was, and Lupe Martinez said it was very positive, as their project was in Washington and scheduled to receive a technical review.

Rep. Robert Welch asked what the timetable on anything coming out of HUD was, and Lupe Martinez stated that what HUD is doing is actively pushing so that decisions are made before the election.

John Knoch mentioned the cost range of \$7.50 - \$20.00 per unit per day, and stated that the \$7.50 was maybe workable, but indicated that \$20.00 was not workable because you're talking about \$600/month and you have not yet included the costs of the utilities, and asked if there was some sense of where between the \$7.50 - \$20.00 most of these units will fall?

Bob Sauer stated that he could not because it will be dependent on those that he can site under a longer term situation.

Mr. Sauer stated that he met with FMHA officials in Washington, and they indicated to him that, at best, they would be able to fund 300 units per year in the agricultural area for the entire country, but are willing to work with UMOS.

Lupe Martinez stated that what we have here is that there are some partnerships here in Wisconsin that could be strengthened. As a group, the projects could be made more competitive. Mr. Martinez mentioned a project in the State of Oregon that came about because of a partnership involving agencies, growers, and government.

Dean Zuleger asked if the question of WHEDA was lack of funds, and Bob Sauer stated that they cannot get competitive with interest rates and there is nothing in their body of language that addresses migrant housing.

Mr. Zuleger asked if something could, possibly through the legislature, be done through a low-income housing tax credit program, as this seems to him to be a logical place for a lot of this.

Rep. Robert Welch stated that the problem with WHEDA was both a statutory problem, and also their 4% - 5% loan programs are probably not a lot better than other sources, so they are probably not an alternative even if you got a statutory language to allow them to fund migrant housing.

John Ebbott stated that a change in WHEDA authority might not hurt because they might not have 4% - 5% interest regular market loans forever.

Rep. Welch stated that WHEDA apparently cannot do transient housing, and migrant housing is classified as transient statutorily.

John Knoch stated that in addition to FMHA being able to only fund 300 units per year in the country, typically, there is about a 2 year period after you first apply, before you are able to start-up your project, and including the operator's time for preparing the paperwork prior to submission, you're looking at about 2 1/2 years or longer, from the time you start the project until you're done, if you get funded.

Dean Zuleger suggested that as agencies work with FMHA, that they be asked to expedite the process a little quicker, because it's maddening at present.

Bob Sauer stated that once you're in the system, it may take you 2 years to get in the first time, but after that, the time frame can be cut significantly. Mr. Sauer said that this is where the advantage comes in by forming a coalition that is working on the same need and make one concerted effort to get into the system.

John Ebbott moved that the migrant council recommend that legislation be enacted, or rules changed, to permit WHEDA to fund migrant housing. Dean Zuleger seconded the motion. The motion passed unanimously.

John Knoch stated that he wanted to sum up what he heard here to make sure he understands correctly and that is that some things are happening and progress being made, but there is nothing set-up yet, and asked if that was correct.

Lupe Martinez restated that the temporary, mobile home program is "on hold" because people are taking a wait-and-see approach to see what kind of administrative code will be adopted today, and what they have to comply with.

Assuming that the administrative code goes through, then people will start scrambling and saying we now have to move forward because we have time frames to meet. At this point and time, Mr. Martinez said that UMOS can accelerate their process and try to address some of the requests that may come in.

Mr. Martinez said that because this program has been "on hold" trying to see what will happen, it will be a bumpy start, but the time frame will be dictated by the number of requests, number of units, and how quickly things can turn around in terms of the Mobile Home Association and the location to refurbish the mobile homes.

Bob Sauer stated that the program will be demand driven and if it's there, they will meet it; if it's not there, then you have to look at other approaches.

Rep. Robert Welch asked if UMOS had a demand for 100 units this coming summer, would UMOS be able to acquire/refurbish the units, and Mr. Sauer stated that he believed that they could do this.

Bob Sauer added that every agency looks at a migrant as not being classifiable under any category, whether homeless, migrant, or transitory.

Bob Sauer stated that any language brought forth addressing the migrant has to do it in such a way that is either going to define the migrant and the transitory in a favorable position to be a recipient of whatever help there will be, or it will be self-defeating.

Rep. Robert Welch wondered if the State Division of Housing had the same problem statutorily, and stated that this would be looked at as the legislation was being drafted.

Brad Kolpin asked if there was an answer to John's question that things are just getting put together, but there are no firm proposals, and Rep. Welch stated that as it relates to the trailers, his question was whether they could have 100 trailers ready by the summer, the answer was that they thought so.

Dean Zuleger asked that if the WHEDA language was changed, what is WHEDA's attitude towards low-interest loans and grants?

Rep. Welch stated that there are no guarantees there.

Lupe Martinez stated a coordinated partnership involving all interested parties could lead to removing barriers to obtain the required funds needed to build migrant housing.

John Ebbott stated that he read section 103.968, Council Review of Rules, to say that the rules will go forward unless the council disapproves the rule, and Rep. Welch stated that this was correct.

John Ebbott stated that if the council takes no action today to disapprove ILHR 301, then the rule will go forward, and Rep. Welch stated that this was correct.

Rep. Welch stated that the rule would have gone forward, but at the last meeting, the council requested that it be delayed for the next meeting, knowing that the actual deadlines in the rule really don't apply until next January.

John Ebbott asked if this required a motion to approve, and Rep. Welch stated that it did not.

Brad Kolpin stated that he had concerns on who is going to pay?, and he believes it will be on the migrant's back and the farmer's back, or a combination of both, and they are the two that probably cannot afford it the most.

Mr. Kolpin stated that whatever program is designed or engineered here, he thinks everyone should be aware of that. If the farmer doesn't pay for it, then the migrant is going to, and that's the unfortunate part of it, because the processor and the people that buy those commodities are not going to care what the cost of the housing is going to be, and he thinks that's what the council heard in Wautoma last month.

Alfredo Luna asked that everyone be committed to doing something about the housing issue, and also that growers use his agency's non-profit status.

Dean Zuleger stated that if there is a contribution of property or a site available, and UMOS uses their non-profit status to construct or take funding, then we're getting closer.

Rep. Welch also discussed FMHA's rental assistance program once the funds are provided and the housing is constructed.

John Knoch stated that Alfredo Luna of La Raza and Lupe Martinez of UMOS should be congratulated for the impetus that they've started here, and thinks that this is promising, and wants to commend them for that.

Mr. Knoch commented that although there is promise there, the numbers of units, and the dollars that this is going to cost, have still not gotten to what that all is going to be.

Mr. Knoch stated that at the last council meeting when this was looked at, we're talking millions of dollars, \$10, \$20, \$25 million dollars for the whole state and we're talking perhaps 100 units under this one program, a time lag in working with FMHA, and he agrees with Lupe that there isn't anybody here that says these changes aren't needed anymore.

Mr. Knoch stated that the problem was coming up with a program that's going to work and one where the monies are going to be there, and that there is going to be sufficient help, whether its the number of units or dollars, to satisfy the problem.

Mr. Knoch stated that what he hears are 100 units, or the numbers are still too far apart, and it makes him nervous to say that this program is going to solve, or a combination of 2 or 3 programs still are not going to solve the problem.

Rep. Robert Welch stated that the way the rule was structured was to try to take that into account, and that the actual deadline is January 1, 1996, and that this council has time between then and now once the impetus is in place and the programs tried, to say this is not working and we may need to do something differently. This could be extending the deadline 6 months or some other kind of change.

Rep. Welch stated that the way this rule is structured by saying here is what is going to happen and now you know it, allows sometime to accomplish it.

John Ebbott stated that if the efforts have been somewhat slowed by employers awaiting what this council does, then he thinks this is an additional reason that the council ought not to disapprove the rule, especially since the council came up with the rule and submitted it to DILHR.

John Ebbott suggested that the council move on to the next agenda item.

Alternatively, while John Ebbott's interpretation is correct that the council does not have to take any affirmative action, Sen. Brian Burke stated that he could not tell by Howard Bernstein's reaction whether or not formal approval today would be helpful at all to DILHR to give a clear signal and to show some certainty in this area.

Howard Bernstein stated that if DILHR knows that the council is not disapproving the rule, DILHR would go ahead and submit the rule.

Sen. Burke stated that if the chairman wanted to put the council on record approving these rule changes, then that, would put the end to the discussion.

Rep. Robert Welch stated that his opinion was that we already voted on this, and unless anyone is going to make a motion to do something different, we're done.

Rep. Welch stated that the discussion has been to try to come to where he thinks they've come today, which is there are some programs that have been put together, and this has been the missing piece.

Rep. Welch also commended Lupe Martinez, Alfredo Luna, and others who have put some work into this, and thinks a lot of progress from a year ago has been made.

Maritza Morales Versteegen asked if a follow-up committee could be formed to continue getting grower input in terms of what specifically needs to be looked at through WHEDA or other programs.

Lupe Martinez stated that the council had an ad-hoc committee, the Housing Standards Committee, set-up previously, and something like this could be reinstated to have lengthy discussions on the details of an issue, and also hear presentations by staff.

Rep. Robert Welch stated that the meeting he held a couple of weeks ago involving cannery/grower sector representatives and representatives from agencies working on proposals, was an attempt to have an informal sub-committee set-up.

Rep. Welch stated that he would continue this set-up, which would not necessarily be just council members, but would be able to report back to the council with up-dates on what it's doing.

Rep. Welch stated that the main thing was to have the link between the non-profits and the growers, and feels that this is key, because they can help each other.

3. DILHR Reports on Illegal Activities of Council Members, under Conflict of Interest and Use of Grower/Canner Names In Council Discussions Regarding Violations.

Howard Bernstein stated that previous council discussion had brought up the question of what is the rule on conflict of interest for the members of the migrant council? Mr. Bernstein stated that the rule is the same as it is for people appointed to state positions.

Mr. Bernstein added that the basic conflict of interest rule, in the statutes (Chapter 19) as the Code of Ethics, states that a person should not take action in their public capacity on something that may give them private benefit.

Mr. Bernstein stated that he could not think of an example where this would apply to members of this council because it is an advisory body.

Mr. Bernstein stated that this was very similar to a legislative committee, so that the votes taken are simply votes on something that may go elsewhere as a recommendation.

Tommy G. Thompson
Governor
Carol Skornicka
Secretary



Mailing Address:
201 E. Washington Avenue
Post Office Box 7946
Madison, WI 53707-7946
Telephone (608) 266-7552

State of Wisconsin
Department of Industry, Labor and Human Relations

December 22, 1992

Gary Poulson
Assistant Revisor of Statutes
2nd Floor
119 Martin Luther King Blvd.
Madison, Wisconsin 53703

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

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DEC 22 1992

Revisor of Statutes
Bureau

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 92-49
RULE NO. ILHR 301
RELATING TO: Migrant Labor Camp Standards

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Carol Skornicka'.

Carol Skornicka
Secretary