

Fiscal Estimate and Economic Impact Analysis - DOA-2049 (R09/2016)

1. Type of Estimate and Analysis: <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected
2. Date: April 30, 2025
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable): DWD 301 – Migrant Labor
4. Subject: Emergency rule regarding heat illness protection
5. Fund Sources Affected: <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S
6. Chapter 20, Stats. Appropriations Affected: 20.445 (1) (a), Stats.
7. Fiscal Effect of Implementing the Rule: <input type="checkbox"/> No Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget
8. The Rule Will Impact the Following (Check All That Apply): <input checked="" type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$ Not applicable. Section 227.137 (3) (b) 1., Stats., requires this information for an economic impact analysis (EIA). Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules. For fiscal effects, see the response to item 14 below.
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

11. Policy Problem Addressed by the Rule:

Not applicable. Section 227.137 (3) (a), Stats., required this information for an EIA. Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules. Note that the emergency rule's Finding of Emergency describes the policy problem addressed by the emergency rule.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

Not applicable. Section 227.137 (3) (intro.), Stats., requires this information for an economic impact analysis (EIA). Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

Not applicable. Section 227.137 (3) (intro.), Stats., requires this information for an EIA. Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

As required under s. 227.14 (4) (b) 1., Stats., DWD estimates that the emergency rule will have no anticipated effect on the fiscal liabilities and revenues of local governmental units. This estimate is based on the fact the emergency rule does not impose any duties on local governmental units. As required under s. 227.14 (4) (b) 2., Stats., DWD projects that the emergency rule will have no anticipated state fiscal effect during the current biennium and no net annualized fiscal impact on state funds. This estimate is based on DWD's assumption that DWD can absorb within its budget any costs for implementing and enforcing the emergency rule. In addition, because the emergency rule's requirements were previously in effect, DWD will be able to rely on its past experience to minimize the fiscal impact of implementation and enforcement.

As required under s. 227.14 (4) (b) 3., Stats., DWD has determined that the emergency rule will not have a significant fiscal effect on the private sector. As of April 2025, approximately 281 entities are subject to regulation under ch. DWD 301. Of that number, 207 are employers and 74 are either migrant labor contractors or agents of employers. Of the 281 businesses, 133 of them operate 264 migrant labor camps located throughout the state. DWD expects those costs to be minimal for the following reasons: The emergency rule will temporarily reinstate heat illness protection requirements that were previously in effect. Therefore, businesses should be able to rely on their past experience to minimize the cost of complying with the emergency rule. In addition, s. DWD 301.09 (7) allows DWD to issue variances from field sanitation requirements, including the heat illness protection requirements under the emergency rule. Therefore, a business can apply for a variance that reduces implementation and compliance costs, which DWD may grant if the application for the variance provides for an equivalency that meets the intent of the requirement for which the variance is sought.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Not applicable. Section 227.137 (3) (c) and (d) Stats., require this information for an EIA. Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules.

16. Long Range Implications of Implementing the Rule

An emergency rule is temporary and has no long range implications.

17. Compare With Approaches Being Used by Federal Government

Not applicable. Section 227.137 (3) (a), Stats., requires this information for an EIA. Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules. Note that the emergency rule's analysis compares the emergency rule with existing and proposed federal regulations.

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

Not applicable. Section 227.137 (3) (a), Stats., requires this information for an EIA. Section 227.137 (5), Stats., provides that an EIA is not required for emergency rules. Note that the emergency rule's analysis compares the emergency rule's requirements to those in neighboring states.

19. Contact Name:

Kathryn Mueller, Program and Planning Section Chief, Migrant and Seasonal Farmworker Programs and Job Service Call Center

20. Contact Phone Number:

(608) 733-3907

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

Many of the employers that are subject to the emergency rule are small businesses, as defined in s. 227.114 (1), Stats. For the reasons stated in response to item 14 above, DWD expects the economic and fiscal impact on these small businesses to be minimal. Additionally, the emergency rule's requirements impose compliance costs that are proportionately higher based on the number of workers employed and, because operations run by small businesses have fewer workers than those operated by larger businesses, those costs are anticipated to have only minimal impact on small businesses. For example, when the outdoor temperature in a work area exceeds 80 degrees Fahrenheit, the emergency rule requires an employer to provide for shade in an amount that is at least enough to accommodate the number of workers resting or taking outdoor meals. The economic impact of this requirement is less for employers who are small

businesses that have smaller numbers of workers. Furthermore, not all operations employ migrant workers to engage in hand labor so not all operations are impacted by this rule.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

DWD conducted field sanitation compliance checks during the 2024 growing season, and reviewed the heat illness preventions plans that were prepared to comply with the heat illness rule. Some employers had questions regarding meeting the shade requirements. DWD was able to provide suggestions for cost-effective compliance options, like using sheets to create shade. Other employers already set up areas of shade as part of their operation before the heat illness rule went into effect.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

Section 103.905 (1), Stats., requires DWD to promulgate rules to enforce and implement ss. 103.90 to 103.97, Stats., which impose requirements on employers without regard to the size of their businesses. Accordingly, DWD lacks authority under those statutes to impose less stringent requirements on small businesses. However, s. DWD 301.09 (7) allows DWD to issue variances from field sanitation requirements, including heat illness protection requirements under the emergency rule. Therefore, a small business can apply for a variance that reduces that economic impact of the emergency rule, which DWD may grant if the application for the variance provides for an equivalency that meets the intent of the requirement for which the variance is sought.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

As noted in the response to item 3 above, a small business can apply for a variance from field sanitation requirements, including the heat illness protection requirements under the emergency rule.

5. Describe the Rule's Enforcement Provisions

The emergency rule does not include enforcement provisions. Instead, DWD can enforce the emergency rule under the enforcement provisions currently in effect under ch. DWD 301. Those provisions include DWD's authority to assess penalty fees for violations and a hearing process for contesting DWD's assessment of penalty fees.

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

- Yes No

