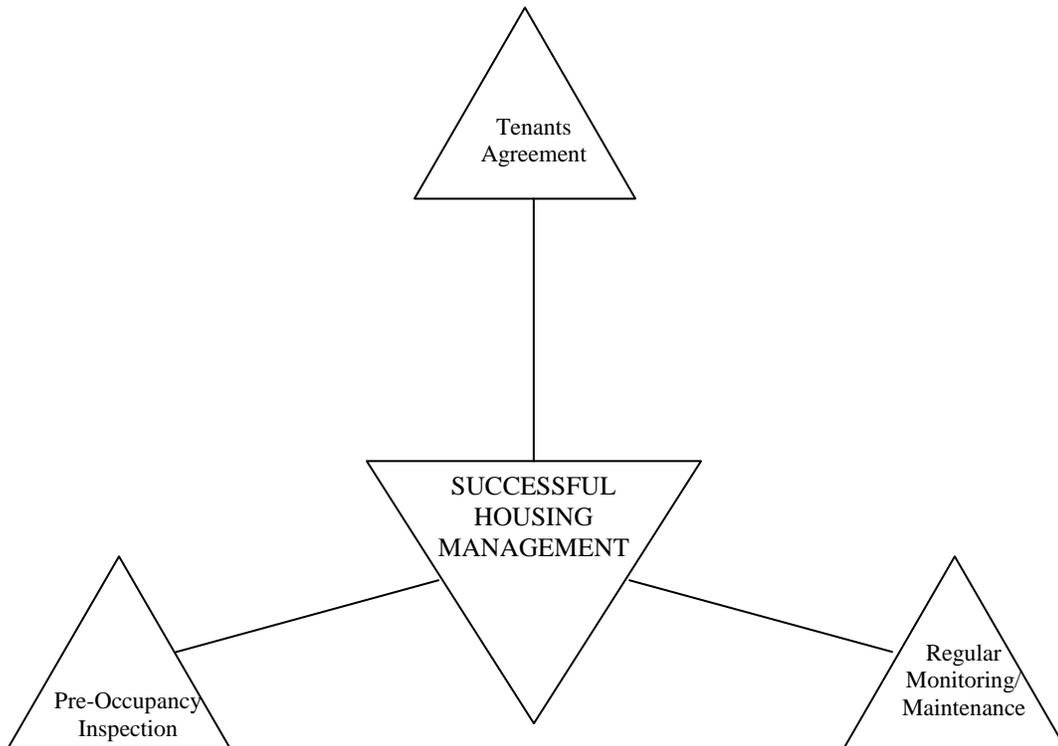


MIGRANT FARMWORKER HOUSING MANAGEMENT GUIDE

**Colorado Department of Labor
& Employment**

Revised June 2013

MIGRANT FARMWORKER HOUSING MANAGEMENT: A GUIDE



INTRODUCTION

This is the fourth printing of the guide originally prepared by the Colorado Migrant Housing Task Force in 1992 for the use of agricultural employers who provide housing for their migrant Farmworkers.

*The Colorado Migrant Housing Task Force is no longer in existence, however the Colorado Department of Labor & Employment, Monitor Advocate's office has updated this useful guide in response to comments from the grower community requesting this type of information, the parts have been rearranged to make them easier to follow. It is our hope that the current format will provide you with useful information which is even easier-to-use than in 1992. **This booklet is intended only as a guide and cannot replace Federal, State or Local Government Rules and Regulations.** This guide contains the names, addresses, and phone numbers of persons to call for additional information and/or answers to technical questions.*

The Monitor Advocate's Office will update this guide from time to time with information which you, the user, recommend to us. We encourage you to provide us with your comments and any suggestions for improvement.

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REGULATIONS AND THE REGULATORY PROCESS

TO MANAGE YOUR MIGRANT HOUSING SUCCESSFULLY.....

YOU WANT TO KNOW THE LAW AND THE AGENCIES RESPONSIBLE FOR REGULATING MIGRANT FARMWORKER HOUSING...

The **Wage and Hour Division of the United States Department of Labor** has the responsibility for conducting migrant housing inspections under the **Migrant and Seasonal Agricultural Worker Protection Act (MSPA)**. Regulations enforced are those of either **Employment and Training Administration (ETA)** or **Occupational Safety and Health Administration (OSHA)**. ETA regulations apply to housing built before April 3, 1980 and OSHA regulations apply to housing built after April 3, 1980. (MSPA Provisions related to migrant farmworker housing and applicable regulations – ETA or OSHA – are found beginning on page 7.)

Pre-occupancy inspections are conducted by “significant” offices of **Colorado Department of Labor and Employment (Colorado Workforce Offices)**. Housing which passes inspection receives a Certificate of Occupancy. (A map giving locations, addresses and phone numbers of Workforce Centers performing Pre-occupancy Inspections is found on page 19.)

The **Occupational Safety and Health Administration (OSHA)** also has authority to conduct Housing Inspections whenever and employer has eleven or more employees. In these circumstances, immediate family members do not count as employees.

This portion of the guide deals primarily with the methods used by Wage and Hour Investigators in conduction Housing Inspections.

THE LAW APPLIES TO YOU IF...

Before beginning any phase of a MSPA inspection, the Investigator must first determine that the law applies to the particular agricultural employer, farm labor contractor, agricultural association, or housing provider. The Law applies if these individuals are performing any of the following six activities for migrant or seasonal agricultural workers:

- (1) Recruiting
- (2) Soliciting for employment
- (3) Hiring
- (4) Employing
- (5) Furnishing housing
- (6) Transporting

The term “**migrant**” **agricultural worker** means anyone employed in agriculture on a temporary basis that is required by his/her work to be absent overnight from his/her permanent place of residence.

The term “**seasonal**” **agricultural worker** means anyone employed in agriculture that is not required by his/her work to be absent overnight from his/her permanent place of residence.

The difference between “migrant” and “seasonal” is important because MSPA Housing requirements DO NOT apply to SEASONAL agricultural workers.

BUT...THERE ARE EXEMPTIONS

The following persons are exempt from all provisions of the MSPA, including Housing Standards:

(1) Family Business Exemption

Anyone who engages in any of the six farm labor activities listed above on behalf of a farm, processing establishment, packing shed, or other agricultural establishment which is operated exclusively by the owner or a member of his/her immediate family.

This exemption will not apply when the business hires a farm labor contractor or an agricultural association or uses anyone other than a member of the immediate family, to perform any of the six activities.

(2) Small Business Exemption

Anyone, other than a farm labor contractor, who did not use more than 500-man days of agricultural labor during any calendar quarter of the previous calendar year.

A man-day is defined as “any day during which an employee performs agricultural labor for not less than 1 hour.”

500 man-days is approximately the equivalent of seven employees working full time in a calendar quarter. Time worked by immediate family members is not counted towards meeting the 500 man-day test.

NOTE: This exemption does not apply to individuals who provide housing to workers employed by other agricultural employers.

(3) Local Short-term Contracting Activity

Anyone who performs any of the contracting activities noted above only within a 25-mile intra-state radius of his/her permanent residence and for not more than 13 weeks per year.

An “Innkeeper” is Exempt from MSPA Housing Standards

The requirement that housing provided to migrant workers must meet Federal and State safety and health standards does not apply to persons who are in the business of providing housing commercially to the general public and who provide the same or similar housing to migrant workers under the same conditions and terms as they do to the general public.

The exemptions discussed on this page, are those which most generally apply to growers, housing providers, and contractors. There are several other exemptions in the law which normally do not relate to the housing situation and therefore are not discussed in this Guide.

IF YOU ARE NOT EXEMPT AND THE LAW APPLIES...

The Law does not require you to provide housing for your migrant workers, but if you choose to do so....

- (1) Certificate of Occupancy.** You must not permit any migrant worker to occupy your housing unless you have a Certificate of Occupancy posted at the site.

The Certificate of Occupancy is obtained by passing a **Pre-occupancy Inspection**, which in Colorado, is conducted through the Colorado Department of Labor “Significant” Workforce Centers. (See Page 19.) You must request a Pre-occupancy Inspection from the Workforce Center in your area. Be sure to have them inspect all the housing you intend to use for migrant workers.

If you request a pre-occupancy inspection through the State or local Workforce Office at least 45 days before you intend to have the housing occupied, and the inspection is not conducted, the housing may be occupied without the Certificate of Occupancy.

Please note that under any circumstances, whether you have a Certificate of Occupancy or not, you are still responsible for making sure that your housing meets the Federal and State safety and health standards before it is occupied.

- (2) Terms and Conditions of Occupancy.** You must give a copy of the terms and conditions of occupancy, if any, to the housing occupants, and/or post a copy at the site. For example, if you charge a fee for the housing, or have a requirement that occupancy is limited to your employees, or that they must help with cleaning the ground as a condition of living there, these conditions must be posted and/or given to the workers. (See an example beginning on page 31.)

...YOU MUST MEET FEDERAL AND STATE SAFETY AND HEALTH STANDARDS

Regulations for housing health and safety requirements are provided beginning on page 8. There are two separate sets of regulations (very similar) depending on whether the standards used are from the Employment and Training Administration (ETA) or the Occupational Safety and Health Administration (OSHA).

If your Housing was built before April 3, 1980, you may choose to have either the ETA or the OSHA Standards used for your Housing inspection. If your Housing was built after April 3, 1980, the OSHA standards must be used for the inspection. There are only slight differences between the two sets of standards. However, it would be wise to compare both ETA and the OSHA standards before being inspected to determine which standard is to your advantage.

IF YOUR HOUSING IS INSPECTED BY WAGE-HOUR, YOU CAN EXPECT...

When you are visited by a Wage-Hour investigator, be aware that he/she is operating under the authority of the United States Secretary of Labor. It is normal for two inspectors to jointly conduct MSPA inspections. All Wage and Hour investigations usually include the following segments.

(1) Opening Conference

Generally, investigations begin with a meeting with the employer. However, this is not always possible, nor is it mandatory. There are times, when the investigator will talk with workers in the field before meeting with the employer. When this occurs, the investigator will attempt to meet with the employer as soon as possible after talking with the workers.

(2) Interviews with Workers

Many Wage-Hour investigators are fluent in foreign languages, and it is not unusual for them to conduct interviews with the employees in their native language. **Employee interviews are always conducted in private.** Neither employers, nor their representatives are allowed to participate or witness these interviews. This is a long standing Wage and Hour policy which has been upheld by the courts on several occasions.

(3) Records Check

Investigators will ask to review employer records. Do not be surprised if he/she also checks for compliance with provisions of the Fair Labor Standards Act (FLSA), the federal minimum wage and over-time law which also includes Child Labor regulations. (You should be aware that violations of the Child Labor Laws can result in several penalties. Contact your nearest Wage-Hour Office listed in the phone book if you have questions regarding Child Labor laws.)

(4) Housing Inspection

It is not necessary for you to accompany the investigator(s) on an inspection of your Migrant Housing; however, you are not precluded from doing so, and it may prove beneficial. During this inspection, inspectors may use a camera to record the status of your housing. If violations are noted, you will be informed.

(5) Final Conference

At the conclusion of the investigation, the investigator(s) will hold a closing conference with the employer to review findings. At this time, the employer will be advised of any violations which have been disclosed during any of the segments noted above. If Civil Money Penalties are to be assessed, they will be made in writing, usually at a later time.

IF YOUR HOUSING IS IN VIOLATION OF STANDARDS, THERE ARE PENALTIES....

Violations of any provisions of Migrant and Seasonal Agricultural Worker Protection Act (MSPA) can result in the assessment of up to \$1,000 in Civil Money Penalties (CMP's) per violation. Violations of the Housing Safety and Health Standards are noted in three separate categories.

- (1) **Aggravated** – Violations that present immediate danger and would have an extremely serious impact on the safety and/or health of the persons affected.

Examples:

- Raw sewage in open pits or trenches close to housing
- Live frayed extension cords stretched between buildings running along the ground and/or through water

- (2) **Serious** – Violations with the potential for danger and for seriously affecting the safety and/or health of the persons affected.

Examples:

- Infestation of insects, rodents, and/or pests
- Beds not provided and camp residents forced to sleep on the ground or floor

- (3) **Marginal** – Violations of a technical or procedural nature which have little or no measurable impact on the persons affected.

Examples:

- Space per person is slightly less than allowed
- Toilet rooms for non-family members unlabeled as to sex

If the investigation of your Housing was the first under MSPA, and violations are found, you may be given a suitable period of time to correct the violations. You will be visited again at the end of that time period and have the opportunity to show that the necessary corrections were made.

IF A CIVIL MONEY PENALTY IS TO BE ASSESSED....

Before determining the amount of the penalty, Wage and Hour will take into consideration the category of the violation which occurred (Aggravated, Serious, or Marginal) and other relevant factors including, but not limited to the following:

- (1) A previous history of knowledge and/or violations of the Migrant and Seasonal Agricultural Worker Protection Act
- (2) The number of workers affected by the violations
- (3) The gravity of the violations
- (4) Commitment to future compliance
- (5) The extent to which the violator achieved a financial gain as a result of the violation

...YOU MAY WANT TO REQUEST A HEARING

All Civil Money Penalty assessments are sent by letter from the District Director of the Wage and Hour Division. If you believe that the violations cited did not occur, you may request a Hearing before an Administrative Law Judge.

Your request should be in writing to the District Director who assessed the penalty. It may be postmarked no later than thirty (30) days from the date of the District Director's assessment letter, and must contain the reasons why you feel the violations did not occur.

FOR ADDITIONAL INFORMATION.....

In Colorado, for additional information on the Migrant and Seasonal Agricultural Worker Protection Act or any of the other laws enforced by the Wage and Hour Division of the U.S. Department of Labor, contact the office listed below:

U.S. Department of Labor
Wage and Hour Division
Denver District Office
1999 Broadway Suite 710
Denver, CO 80202

Phone: English 720-264-3250 or 720-264-3282
Spanish 720-264-3253

Migrant and Seasonal Agricultural Worker Protection Act as Amended

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

WH Publication 1465
Revised July 1989

TITLE II – MIGRANT AGRICULTURAL WORKER PROTECTIONS

INFORMATION AND RECORDKEEPING REQUIREMENTS

SEC. 201.

(c) Each farm labor contractor, agricultural employer, and agricultural association which provides housing for any migrant agricultural worker shall post in a conspicuous place or present to such worker a statement of the terms and conditions, if any, of occupancy of such housing.

SAFETY AND HEALTH OF HOUSING

SEC. 203. (a) Except as provided in subsection (c), each person who owns or controls a facility or real property which is used as housing for migrant agricultural workers shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing.

(b)(1) Except as provided in subsection (c) and paragraph (2) of this subsection, no facility or real property may be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards. No person who owns or controls any such facility or property shall permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. The receipt and posting of a certificate of occupancy does not relieve any person of responsibilities under subsection (a). Each such person shall retain the original certification for three years and shall make it available for inspection and review in accordance with section 512.

(2) Notwithstanding paragraph (1) of this subsection, if a request for the inspection of facility or real property is made to the appropriate State or local agency at least forty-five days prior to the date on which it is occupied by migrant agricultural workers and such agency has not conducted an inspection by such date, the facility or property may be occupied.

(c) This section does not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

Applies to housing built before 1980

Subpart E – Housing for Agricultural Workers

Authority: 29 U.S.C. 49k; 8 U.S.C. 1186(c) (4); 41 Op. A.G. 406 (1959) .

Source: 45 FR 14182, Mar. 4, 1980, unless otherwise noted.

20 CFR 654.400 Purpose and Applicability

(a) This subpart sets forth the Employment and Training Administration standards for agricultural housing. Local Job Service offices, as part of the State employment service agencies and in cooperation with the United States Employment Service, assist employers in recruiting agricultural workers from places outside the area of intended employment. The experiences of the employment service indicate that employees so referred have on many occasions been provided with inadequate, unsafe, and unsanitary housing conditions. To discourage this practice, it is the policy of the Federal-State employment service system, as set forth in Sec. 653.108 of this chapter, to deny its intrastate and interstate recruitment services to employers until the State employment service agency has ascertained that the employer's housing meets certain standards.

(b) To implement this policy, Sec. 653.108 of this chapter provides That recruitment services shall be denied unless the employer has signed an assurance, a preoccupancy inspection has been conducted and the ES staff has ascertained that, with respect to intrastate clearance, if the workers are to be housed, the employer's housing meets or, with respect to interstate clearance, that the employer will provide housing for the workers which meets either the full set of standards set forth at 29 CFR 1910.142 or the full set of standards set forth in this subpart. Whichever is applicable under the criteria set forth in Sec. 654.401; except that for mobile range housing for shepherders, the housing shall meet existing Departmental guidelines.

[45 FR 14182, Mar. 4, 1980; 45 FR 22901, Apr. 4, 1980]

20 CFR 654.401 - Applicability; transitional provisions

(a) Employers whose housing was constructed in accordance with the ETA housing standards may continue to follow the full set of ETA standards set forth in this subpart only where prior to April 3, 1980 the housing was completed or under construction, or where prior to March 4, 1980 a contract for the construction of the specific housing was signed.

(b) To effectuate these transitional provisions, agricultural housing to which this subpart applies and which complies with the full set of standards set forth in this subpart shall be considered to be in compliance with the Occupational Safety and Health Administration temporary labor camp standards at 29 CFR 1910.142.

20 CFR 654.402 – Variances

(a) An employer may apply for a permanent, structural variance from a specific standard(s) in this subpart by filing a written application for such a variance with the local Job Service office serving the area in which the housing is located. This application must be filed by June 2, 1980 and must:

- (1) Clearly specify the standard(s) from which the variance is desired;
 - (2) Provide adequate justification that the variance is necessary to obtain a beneficial use of an existing facility, and to prevent a practical difficulty or unnecessary hardship; and
 - (3) Clearly set forth the specific alternative measures which the employer has taken to protect the health and safety of workers and adequately show that such alternative measures have achieved the same result as the standard(s) from which the employer desires the variance.
- (b) Upon receipt of a written request for a variance under paragraph (a) of this section, the local Job Service office shall send the request to the State office which, in turn, shall forward it to the Regional Administrator, Employment and Training Administration (RA). The RA shall review the matter and, after consultation with OSHA, shall either grant or deny the request for a variance.
- (c) The variance granted by the RA shall be in writing, shall state the particular standard(s) involved, and shall state as conditions of the variance the specific alternative measures which have been taken to protect the health and safety of the workers. The RA shall send the approved variance to the employer and shall send copies to the Regional Administrator of the Occupational Safety and Health Administration, the Regional Administrator of the Employment Standards Administration, and the appropriate State agency and the local Job Service office. The employer shall submit and the local Job Service office shall attach copies of the approved variance to each of the employer's job orders which is placed into intrastate or interstate clearance.
- (d) If the RA denies the request for a variance, the RA shall provide written notice stating the reasons for the denial to the employer, the appropriate State agency and the local Job Service office. The notice shall also offer the employer an opportunity to request a hearing before a DOL Hearing Officer, provided the employer requests such a hearing from the RA within 30 calendar days of the date of the notice. The request for a hearing shall be handled in accordance with the employment service complaint procedures set forth at Secs. 658.421 (i) and (j), 658.422 and 658.423 of this chapter.
- (e) The procedures of paragraphs (a) through (d) of this section shall only apply to an employer who has chosen, as evidenced by its written request for a variance, to comply with the ETA housing standards at Secs. 654.404--654.417 of this subpart.

20 CFR 654.403 - Conditional access to the intrastate or interstate clearance system

- (a) Filing requests for conditional access--(1) "Non-criteria" employers. Except as provided in paragraph (a)(2) of this section, an employer whose housing does not meet applicable standards may file with the local Job Service office serving the area in which its housing is located, a written request that its job orders be conditionally allowed into the intrastate or interstate clearance system, provided that the employer's request assures that its housing will be in full compliance with the requirements of the applicable housing standards at least 20 calendar days (giving the specific date) before the housing is to be occupied.
- (2) "Criteria" employers. If the request for conditional access described in paragraph (a)(1) of this section is from an employer filing a job order pursuant to an application for temporary alien agricultural labor certification for H-2A alien agricultural workers or H-2 alien workers under subpart B or subpart C, respectively, of part 655 of this chapter, the request shall be filed with the RA as an attachment to the application for temporary alien agricultural labor certification.
- (3) Assurance. The employer's request pursuant to paragraphs (a)(1) or (a)(2) of this section shall contain an assurance that the housing will be in full compliance with the applicable housing standards at least 20 calendar days (stating the specific date) before the housing is to be occupied.

(b) Processing requests--(1) State agency processing. Upon receipt of a written request for conditional access to the intrastate or interstate clearance system under paragraph (a)(1) of this section, the local Job Service office shall send the request to the State office, which, in turn, shall forward it to the Regional Administrator, Employment and Training Administration, (RA).

(2) Regional office processing and determination. Upon receipt of a request for conditional access pursuant to paragraph (a)(2) or paragraph (b)(1) of this section, the RA shall review the matter and, as appropriate, shall either grant or deny the request.

(c) Authorization. The authorization for conditional access to the intrastate or interstate clearance system shall be in writing, and shall state that although the housing does not comply with the applicable standards, the employer's job order may be placed into intrastate or interstate clearance until a specified date. The RA shall send the authorization to the employer and shall send copies to the appropriate State agency and local Job Service office. The employer shall submit and the local Job Service shall attach copies of the authorization to each of the employer's job orders which are placed into intrastate or interstate clearance.

(d) Notice of denial. If the RA denies the request for conditional access to the intrastate or interstate clearance system, the RA shall provide written notice to the employer, the appropriate State agency, and the local Job Service office, stating the reasons for the denial.

(e) Inspection. (1) The local Job Service office serving the area containing the housing of any employer granted conditional access to the intrastate or interstate clearance system shall assure that the housing is inspected no later than the date by which the employer has promised to have its housing in compliance with the requirements of this subpart. An employer, however, may request an earlier preliminary inspection. If, on the date set forth in the authorization, the housing is not in full compliance with the applicable housing standards as assured in the request for conditional access, the local Job Service office shall afford the employer five calendar days to bring the housing into full compliance. After the five-calendar-day period, if the housing is not in full compliance with the applicable housing standards as assured in the request for conditional access, the local Job Service office immediately:

(i) Shall notify the RA;

(ii) Shall remove the employer's job orders from intrastate and interstate clearance; and

(iii) Shall, if workers have been recruited against these orders, in cooperation with the employment service agencies in other States, make every reasonable attempt to locate and notify the appropriate crew leaders or workers, and to find alternative and comparable employment for the workers. [52 FR 20506, June 1, 1987; 64 FR 34957, June 29, 1999]

Housing Standards

20 CFR 654.404 Housing site

(a) Housing sites shall be well drained and free from depressions in which water may stagnate. They shall be located where the disposal of sewage is provided in a manner which neither creates nor is likely to create a nuisance, or a hazard to health.

(b) Housing shall not be subject to, or in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or any similar hazards.

(c) Grounds within the housing site shall be free from debris, noxious plants (poison ivy, etc.) and uncontrolled weeds or brush.

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

20 CFR 654.405 - Water supply

- (a) An adequate and convenient supply of water that meets the standards of the State health authority shall be provided.
- (b) A cold water tap shall be available within 100 feet of each individual living unit when water is not provided in the unit. Adequate drainage facilities shall be provided for overflow and spillage.
- (c) Common drinking cups shall not be permitted.

20 CFR 654.406 - Excreta and liquid waste disposal

- (a) Facilities shall be provided and maintained for effective disposal of excreta and liquid waste. Raw or treated liquid waste shall not be discharged or allowed to accumulate on the ground surface.
- (b) Where public sewer systems are available, all facilities for disposal of excreta and liquid wastes shall be connected thereto.
- (c) Where 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. Any requirements of the State health authority shall be complied with.

20 CFR 654.407 – Housing

- (a) Housing shall be structurally sound, in good repair, in a sanitary condition and shall provide protection to the occupants against the elements.
- (b) Housing shall have flooring constructed of rigid materials, smooth finished, readily cleanable, and so located as to prevent the entrance of ground and surface water.
- (c) The following space requirements shall be provided:
 - (1) For sleeping purposes only in family units and in dormitory accommodations using single beds, not less than 50 square feet of floor space per occupant;
 - (2) For sleeping purposes in dormitory accommodations using double bunk beds only, not less than 40 square feet per occupant;
 - (3) For combined cooking, eating, and sleeping purposes not less than 60 square feet of floor space per occupant.
- (d) Housing used for families with one or more children over 6 years of age shall have a room or partitioned sleeping area for the husband and wife. The partition shall be of rigid materials and installed so as to provide reasonable privacy.
- (e) Separate sleeping accommodations shall be provided for each sex or each family.
- (f) Adequate and separate arrangements for hanging clothing and storing personal effects for each person or family shall be provided.
- (g) At least one-half of the floor area in each living unit shall have a minimum ceiling height of 7 feet. No floor space shall be counted toward minimum requirements where the ceiling height is less than 5 feet.
- (h) Each habitable room (not including partitioned areas) shall have at least one window or skylight opening directly to the out-of-doors. The minimum total window or skylight area, including windows in doors, shall equal at least 10 percent of the usable floor area. The total open able area shall equal at least 45 percent of the minimum window or skylight area required, except where comparably adequate ventilation is supplied by mechanical or some other method.

20 CFR 654.408 – Screening

- (a) All outside openings shall be protected with screening of not less than 16 mesh.
- (b) All screen doors shall be tight fitting, in good repair, and equipped with self-closing devices.

20 CFR 654.409 – Heating

- (a) All living quarters and service rooms shall be provided with properly installed, operable heating equipment capable of maintaining a temperature of at least 68 deg. F. if during the period of normal occupancy the temperature in such quarters falls below 68 deg..
- (b) Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. No portable heaters other than those operated by electricity shall be provided. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.
- (c) Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stovepipe shall be of fireproof material. A vented metal collar shall be installed around a stovepipe, or vent passing through a wall, ceiling, floor or roof.
- (d) When a heating system has automatic controls, the controls shall be of the type which cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded. [45 FR 14182, Mar. 4, 1980; 45 FR 22901, Apr. 4, 1980]

20 CFR 654.410 - Electricity and lighting

- (a) All housing sites shall be provided with electric service.
- (b) Each habitable room and all common use rooms, and areas such as: Laundry rooms, toilets, privies, hallways, stairways, etc., shall contain adequate ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet shall be provided in each individual living room.
- (c) Adequate lighting shall be provided for the yard area, and pathways to common use facilities.
- (d) All wiring and lighting fixtures shall be installed and maintained in a safe condition.

20 CFR 654.411 – Toilets

- (a) Toilets shall be constructed, located and maintained so as to prevent any nuisance or public health hazard.
- (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) Urinals, constructed of nonabsorbent materials, may be substituted for men's toilet seats on the basis of one urinal or 24 inches of trough-type urinal for one toilet seat up to a maximum of one-third of the required toilet seats.
- (d) Except in individual family units, separate toilet accommodations for men and women shall be provided. If toilet facilities for men and women are in the same building, they shall be separated by a solid wall from floor to roof or ceiling. Toilets shall be distinctly marked ``men" and ``women" in English and in the native language of the persons expected to occupy the housing.

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

(f) Common use toilets and privies shall be well lighted and ventilated and shall be clean and sanitary.

(g) Toilet facilities shall be located within 200 feet of each living unit.

(h) Privies shall not be located closer than 50 feet from any living unit or any facility where food is prepared or served.

(i) Privy structures and pits shall be fly tight. Privy pits shall have adequate capacity for the required seats.

20 CFR 654.412 - Bathing, laundry, and hand washing

(a) Bathing and hand washing facilities, supplied with hot and cold water under pressure, shall be provided for the use of all occupants. These facilities shall be clean and sanitary and located within 200 feet of each living unit.

(b) There shall be a minimum of 1 showerhead per 15 persons. Showerheads shall be spaced at least 3 feet apart, with a minimum of 9 square feet of floor space per unit. Adequate, dry dressing space shall be provided in common use facilities. Shower floors shall be constructed of nonabsorbent nonskid materials and sloped to properly constructed floor drains. Except in individual family units, separate shower facilities shall be provided each sex. When common use shower facilities for both sexes are in the same building they shall be separated by a solid nonabsorbent wall extending from the floor to ceiling, or roof, and shall be plainly designated "men" or "women" in English and in the native language of the persons expected to occupy the housing.

(c) Lavatories or equivalent units shall be provided in a ratio of 1 per 15 persons.

(d) Laundry facilities, supplied with hot and cold water under pressure, shall be provided for the use of all occupants. Laundry trays or tubs shall be provided in the ratio of 1 per 25 persons. Mechanical washers may be provided in the ratio of 1 per 50 persons in lieu of laundry trays, although a minimum of 1 laundry tray per 100 persons shall be provided in addition to the mechanical washers.

20 CFR 654.413 - Cooking and eating facilities

(a) When workers or their families are permitted or required to cook in their individual unit, a space shall be provided and equipped for cooking and eating. Such space shall be provided with:

(1) A cook stove or hot plate with a minimum of two burners; and (2) adequate food storage shelves and a counter for food preparation; and (3) provisions for mechanical refrigeration of food at a temperature of not more than 45 deg. F.; and (4) a table and chairs or equivalent seating and eating arrangements, all commensurate with the capacity of the unit; and (5) adequate lighting and ventilation.

(b) When workers or their families are permitted or required to cook and eat in a common facility, a room or building separate from the sleeping facilities shall be provided for cooking and eating. Such room or building shall be provided with:

(1) Stoves or hot plates, with a minimum equivalent of two burners, in a ratio of 1 stove or hot plate to 10 persons, or 1 stove or hot plate to 2 families; and (2) adequate food storage shelves and a counter for food preparation; and (3) mechanical refrigeration for food at a temperature of not more than 45 deg. F.; and (4) tables and chairs or equivalent seating adequate for the intended use of the facility; and (5) adequate sinks with hot and cold water under pressure; and (6) adequate lighting and ventilation; and (7) floors shall be of nonabsorbent, easily cleaned materials.

(c) When central mess facilities are provided, the kitchen and mess hall shall be in proper proportion to the capacity of the housing and shall be separate from the sleeping quarters. The physical facilities, equipment and operation shall be in accordance with provisions of applicable State codes.

(d) Wall surface adjacent to all food preparation and cooking areas shall be of nonabsorbent, easily cleaned material. In addition, the wall surface adjacent to cooking areas shall be of fire-resistant material.

20 CFR 654.414 - Garbage and other refuse

(a) Durable, fly-tight, clean containers in good condition of a minimum capacity of 20 gallons, shall be provided adjacent to each housing unit for the storage of garbage and other refuse. Such containers shall be provided in a minimum ratio of 1 per 15 persons.

(b) Provisions shall be made for collection of refuse at least twice a week, or more often if necessary. The disposal of refuse, which includes garbage, shall be in accordance with State and local law.

20 CFR 654.415 - Insect and rodent control

Housing and facilities shall be free of insects, rodents, and other vermin.

20 CFR 654.416 - Sleeping facilities

(a) Sleeping facilities shall be provided for each person. Such facilities shall consist of comfortable beds, cots, or bunks, provided with clean mattresses.

(b) Any bedding provided by the housing operator shall be clean and sanitary.

(c) Triple deck bunks shall not be provided.

(d) The clear space above the top of the lower mattress of a double deck bunk and the bottom of the upper bunk shall be a minimum of 27 inches. The distance from the top of the upper mattress to the ceiling shall be a minimum of 36 inches.

(e) Beds used for double occupancy may be provided only in family accommodations.

20 CFR 654.417 - Fire, safety, and first aid

(a) All buildings in which people sleep or eat shall be constructed and maintained in accordance with applicable State or local fire and safety laws.

(b) In family housing and housing units for less than 10 persons, of one story construction, two means of escape shall be provided. One of the two required means of escape may be a readily accessible window with an open able space of not less than 24 x 24 inches.

(c) All sleeping quarters intended for use by 10 or more persons, central dining facilities, and common assembly rooms shall have at least two doors remotely separated so as to provide alternate means of escape to the outside or to an interior hall.

(d) Sleeping quarters and common assembly rooms on the second story shall have a stairway, and a permanent, affixed exterior ladder or a second stairway.

(e) Sleeping and common assembly rooms located above the second story shall comply with the State and local fire and building codes relative to multiple story dwellings.

(f) Fire extinguishing equipment shall be provided in a readily accessible place located not more than 100 feet from each housing unit. Such equipment shall provide protection equal to

a 2½ gallon stored pressure or 5-gallon pump-type water extinguisher.

(g) First aid facilities shall be provided and readily accessible for use at all time. Such facilities shall be equivalent to the 16 unit first aid kit recommended by the American Red Cross, and provided in a ratio of 1 per 50 persons.

(h) No flammable or volatile liquids or materials shall be stored in or adjacent to rooms used for living purposes, except for those needed for current household use.

(i) Agricultural pesticides and toxic chemicals shall not be stored in the housing area.

Applies to housing built after April 30, 1980

1910.142 – TEMPORARY LABOR CAMPS

1910.142(a) "Site."

1910.142(a)(1)

All sites used for camps shall be adequately drained. They shall not be subject to periodic flooding, nor located within 200 feet of swamps, pools, sink holes, or other surface collections of water unless such quiescent water surfaces can be subjected to mosquito control measures. The camp shall be located so the drainage from and through the camp will not endanger any domestic or public water supply. All sites shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.

1910.142(a)(2)

All sites shall be adequate in size to prevent overcrowding of necessary structures. The principal camp area in which food is prepared and served and where sleeping quarters are located shall be at least 500 feet from any area in which livestock is kept.

1910.142(a)(3)

The grounds and open areas surrounding the shelters shall be maintained in a clean and sanitary condition free from rubbish, debris, waste paper, garbage, or other refuse.

1910.142(a)(4)

Whenever The camp is closed for the season or permanently, all garbage, manure, and other refuse shall be collected and so disposed of as to prevent nuisance. All abandoned privy pits shall be filled with earth and the grounds and buildings left in a clean and sanitary condition. If privy buildings remain, they shall be locked or otherwise secured to prevent entrance.

1910.142(b) “Shelter”

1910.142(b)(1)

Every shelter in the camp shall be constructed in a manner which will provide protection against the elements.

1910.142(b)(2)

Each room used for sleeping purposes shall contain at least 50 square feet of floor space for each occupant. At least a 7-foot ceiling shall be provided.

1910.142(b)(3)

Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles shall be provided in every room used for sleeping purposes. Such beds or similar facilities shall be spaced not closer than 36 inches both laterally and end to end, and shall be elevated at least 12 inches from the floor. If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches. Triple-deck bunks are prohibited.

1910.142(b)(4)

The floors of each shelter shall be constructed of wood, asphalt, or concrete. Wooden floors shall be of smooth and tight construction. The floors shall be kept in good repair.

1910.142(b)(5)

All wooden floors shall be elevated not less than 1 foot above the ground level at all points to prevent dampness and to permit free circulation of air beneath.

1910.142(b)(6)

Nothing in this section shall be construed to prohibit "banking" with earth or other suitable material around the outside walls in areas subject to extreme low temperatures.

1910.142(b)(7)

All living quarters shall be provided with windows the total of which shall be not less than one-tenth of the floor area. At least one-half of each window shall be so constructed that it can be opened for purposes of ventilation.

1910.142(b)(8)

All exterior openings shall be effectively screened with 16-mesh material. All screen doors shall be equipped with self-closing devices.

1910.142(b)(9)

In a room where workers cook, live, and sleep a minimum of 100 square feet per person shall be provided. Sanitary facilities shall be provided for storing and preparing food.

1910.142(b)(10)

In camps where cooking facilities are used in common, stoves (in ratio of one stove to 10 persons or one stove to two families) shall be provided in an enclosed and screened shelter. Sanitary facilities shall be provided for storing and preparing food.

1910.142(b)(11)

All heating, cooking, and water heating equipment shall be installed in accordance with State and local ordinances, codes, and regulations governing such installations. If a camp is used during cold weather, adequate heating equipment shall be provided.

1910.142(c) “Water supply.”

1910.142(c)(1)

An adequate and convenient water supply, approved by the appropriate health authority, shall be provided in each camp for drinking, cooking, bathing, and laundry purposes.

1910.142(c)(2)

A water supply shall be deemed adequate if it is capable of delivering 35 gallons per person per day to the campsite at a peak rate of 2 1/2 times the average hourly demand.

1910.142(c)(3)

The distribution lines shall be capable of supplying water at normal operating pressures to all fixtures for simultaneous operation. Water outlets shall be distributed throughout the camp in such a manner that no shelter is more than 100 feet from a yard hydrant if water is not piped to the shelters.

1910.142(c)(4)

Where water under pressure is available, one or more drinking fountains shall be provided for each 100 occupants or fraction thereof. Common drinking cups are prohibited

1910.142(d) “Toilet facilities”

1910.142(d)(1)

Toilet facilities adequate for the capacity of the camp shall be provided.

1910.142(d)(2)

Each toilet room shall be located so as to be accessible without any individual passing through any sleeping room. Toilet rooms shall have a window not less than 6 square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with 16-mesh material. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for other than toilet purposes.

1910.142(d)(3)

A toilet room shall be located within 200 feet of the door of each sleeping room. No privy shall be closer than 100 feet to any sleeping room, dining room, lunch area, or kitchen.

1910.142(d)(4)

Where the toilet rooms are shared, such as in multifamily shelters and in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.

1910.142(d)(5)

Where toilet facilities are shared, the number of water closets or privy seats provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ratio of one such unit to each 15 persons, with a minimum of two units for any shared facility.

1910.142(d)(6)

Urinals shall be provided on the basis of one unit or 2 linear feet of urinal trough for each 25 men. The floor from the wall and for a distance not less than 15 inches measured from the outward edge of the urinals shall be constructed of materials impervious to moisture. Where water under pressure is available, urinals shall be provided with an adequate water flush. Urinal troughs in privies shall drain freely into the pit or vault and the construction of this drain shall be such as to exclude flies and rodents from the pit.

1910.142(d)(7)

Every water closet installed on or after August 31, 1971, shall be located in a toilet room.

1910.142(d)(8)

Each toilet room shall be lighted naturally, or artificially by a safe type of lighting at all hours of the day and night.

1910.142(d)(9)

An adequate supply of toilet paper shall be provided in each privy, water closet, or chemical toilet compartment.

1910.142(d)(10)

Privies and toilet rooms shall be kept in a sanitary condition. They shall be cleaned at least daily.

1910.142(e)

"Sewage disposal facilities." In camps where public sewers are available, all sewer lines and floor drains from buildings shall be connected thereto.

1910.142(f) "Laundry, hand washing, and bathing facilities"

1910.142(f)(1)

Laundry, hand washing, and bathing facilities shall be provided in the following ratio:

1910.142(f)(1)(i)

Hand wash basin per family shelter or per six persons in shared facilities.

1910.142(f)(1)(ii)

Shower head for every 10 persons.

1910.142(f)(1)(iii)

Laundry tray or tub for every 30 persons.

1910.142(f)(1)(iv)

Slop sink in each building used for laundry, hand washing, and bathing.

1910.142(f)(2)

Floors shall be of smooth finish but not slippery materials; they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be coved. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.

1910.142(f)(3)

An adequate supply of hot and cold running water shall be provided for bathing and laundry purposes. Facilities for heating water shall be provided.

1910.142(f)(4)

Every service building shall be provided with equipment capable of maintaining a temperature of at least 70 deg. F. during cold weather.

1910.142(f)(5)

Facilities for drying clothes shall be provided.

1910.142(f)(6)

All service buildings shall be kept clean.

1910.142(g)

"Lighting." Where electric service is available, each habitable room in a camp shall be provided with at least one ceiling-type light fixture and at least one separate floor- or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate shall contain at least one ceiling- or wall-type fixture. Light levels in toilet and storage rooms shall be at least 20 foot-candles 30 inches from the floor. Other rooms, including kitchens and living quarters, shall be at least 30 foot-candles 30 inches from the floor.

1910.142(h) "Refuse disposal"

1910.142(h)(1)

Fly-tight, rodent-tight, impervious, cleanable or single service containers, approved by the appropriate health authority shall be provided for the storage of garbage. At least one such container shall be provided for each family shelter and shall be located within 100 feet of each shelter on a wooden, metal, or concrete stand.

1910.142(h)(2)

Garbage containers shall be kept clean.

1910.142(h)(3)

Garbage containers shall be emptied when full, but not less than twice a week.

1910.142(i)

"Construction and operation of kitchens, dining hall, and feeding facilities."

1910.142(i)(1)

In all camps where central dining or multiple family feeding operations are permitted or provided, the food handling facilities shall comply with the requirements of the "Food Service Sanitation Ordinance and Code," Part V of the "Food Service Sanitation Manual," U.S. Public Health Service Publication 934 (1965), which is incorporated by reference as specified in Sec. 1910.6.

1910.142(i)(2)

A properly constructed kitchen and dining hall adequate in size, separate from the sleeping quarters of any of the workers or their families, shall be provided in connection with all food handling facilities. There shall be no direct opening from living or sleeping quarters into a kitchen or dining hall.

1910.142(i)(3)

No person with any communicable disease shall be employed or permitted to work in the preparation, cooking, serving, or other handling of food, foodstuffs, or materials used therein, in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.

1910.142(j)

"Insect and rodent control." Effective measures shall be taken to prevent infestation by and harborage of animal or insect vectors or pests.

1910.142(k) "First aid"

1910.142(k)(1)

Adequate first aid facilities approved by a health authority shall be maintained and made available in every labor camp for the emergency treatment of injured persons.

1910.142(k)(2)

Such facilities shall be in charge of a person trained to administer first aid and shall be readily accessible for use at all times.

1910.142(l)

"Reporting communicable disease."

1910.142(l)(1)

It shall be the duty of the camp superintendent to report immediately to the local health officer the name and address of any individual in the camp known to have or suspected of having a communicable disease.

1910.142(l)(2)

Whenever there shall occur in any camp a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it shall be the duty of the camp superintendent to report immediately the existence of the outbreak to the health authority by telegram, telephone, electronic mail or any method that is equally fast.

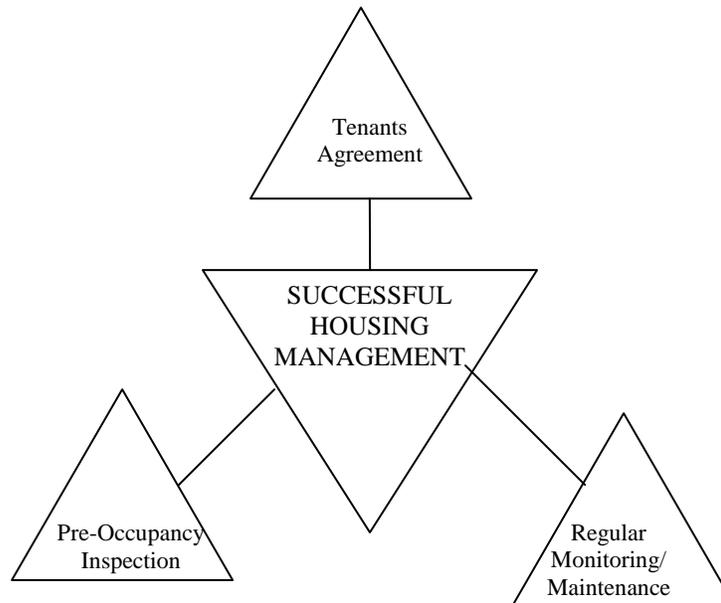
[39 FR 23502, June 27, 1974, as amended at 47 FR 14696, Apr. 6, 1982; 49 FR 18295, Apr. 30, 1984; 61 FR 5507, Feb. 13, 1996; 61 FR 9227, March 7, 1996; 63 FR 33450, June 18, 1998; 70 FR 1141, Jan. 5, 2005; 70 FR 53929, Sept. 13, 2005]

STRATEGIES FOR SUCCESSFULLY MANAGING MIGRANT FARMWORKER HOUSING

HOW TO DO IT? THAT'S THE QUESTION!

You repair, clean up, and shape up in the spring.... Everything looks good. BUT, in the middle of harvest, when you are the busiest, Wage and Hour appears at your door and says your housing does not meet requirements for health and safety. Your housing is in violation. How can you avoid this painful scenario?

USE A THREE-PRONGED STRATEGY



1. Request a Pre-Occupancy Inspection

- Start the season with housing certified to be A-OK.
- The law says a Pre-Occupancy Inspection is necessary before occupancy. Get your request in early to your Local Workforce Center. (See the map on page 19 for the Workforce Center in your area.) Inspectors are limited and they have 45 days to fill your request. If it is not inspected in that time, you may admit residents, BUT you are still required to have your housing up to code and your housing may not measure up and you would be subject to fines if Wage and Hour Inspectors find it in violation. (Workforce Centers do not have enforcement powers.)
- Before the Workforce Center inspector comes, make sure your housing meets the applicable regulations. The actual law is located beginning on Page 7 of this booklet. The checklist of housing requirements beginning on page 21 provides an easier-to-read version than the regulations, however, we do suggest you read the regulations as well, as all points are not completely covered in the checklist. The checklist is divided into two columns: “Requirements

Related to Basic Structure” and “Requirements Related to Ongoing Management.” Use the first column as a check list to be sure your housing is in order. If the inspector finds problems, you will be asked to correct them before he/she will issue a pre-occupancy certificate. Post the certificate. (Make an extra copy and keep it along with the original on file.)

2. SET UP A PLAN FOR ROUTINE MONITORING AND REGULAR MAINTENANCE

- Continued care of your housing is essential during the season.
 1. Designate a person on your staff. **Train them.**
 2. Set a regular time to make the inspection (once a week?).
 3. A monitoring worksheet is included. using it will demonstrate that you have been diligent in maintaining your housing.
- Enlist the help of your residents to keep the housing in good condition.
 1. Tell the residents to expect you or your designee to check on the housing every week.
 2. Post the monitoring worksheet. Ask resident to let you know if there is a problem.
 3. It is a common-use facility, help residents make a schedule for cleaning responsibilities (bathroom, kitchen, and trash).
 4. **Thank them for their help!** Some growers find it helpful to add a bonus to the damage deposit if the housing is vacated in good condition.

3. PROVIDE A TENANT’S AGREEMENT

- Make the terms and conditions of occupancy clear in writing in the language the workers understand. Examples of terms and conditions
 - What is the rent? How will it be collected? Is housing Free?
 - Is there a damage deposit? How much? What are the conditions forfeit or return?
 - What are the rules for living there? Employment? Occupancy limits? Cleaning care? Time required to give notice? Other conditions?
- Conditions must either be posted at the site or given to the tenant. This is required.
- Have residents sign the tenant’s agreement. (This is not required, but more effective.) Both a DOL form and an example of one grower’s agreement are found in Appendix A. Your agreement should include what is applicable to your housing and need not be in the DOL format.

State of Colorado

Delta Workforce Center
 206 Ute Street
 Delta, CO 81416
 Contact: Criselda Gutierrez 970-249-7753

Employment Services of Weld County
 315 N. 11th Avenue Building B
 Greeley, CO 80623
 Contact: Erik Zamora 970-353-3800 Ext

Adams County Workforce & Business Center
 4430 South Adams County Parkway
 Suite W5000
 Brighton, CO 80601
 Contact: Sonia Rodriguez 720-523-6943

Olga Ruiz
 State Monitor Advocate
 Colorado Department of Labor & Employment
 633 17th Street, Suite 700
 Denver, CO 80202
 303-318-8802 or 303-241-8511

Lamar Workforce Center
 405 E. Olive Street
 Lamar, CO 81052
 Contact: Elva Macias 719-336-2256

Rocky Ford Workforce Center
 801 Chestnut Avenue
 Rocky Ford, CO 81067
 Contact: Raymundo Rivera 719-254-3396



Monte Vista Workforce Center
 2079 Sherman Avenue
 Monte Vista, CO 81144
 Contact : Gus Basterrechea
 719-852-5171

Colorado Workforce Center Service Areas that provides Pre-Occupancy Housing Inspections

GENERAL REQUIREMENTS FOR MIGRANT FARMWORER HOUSING

(Note: This list is intended as a guide. It is not definitive. If you have questions, check OSHA Regulations 1910.142 or ETA Regulations 20 CFR 654.)

Regulations Related to Basic Structure

Regulations Related to Ongoing Maintenance

Housing Site:

- Drainage is adequate
- Not located near hazardous conditions
- There is reasonable space for recreation
- Ground free from debris, weeds, etc.

Water Supply:

- Water supply meets CDH standards
- Water supply adequate
- Cold water taps are within 100' (if needed)
- Drainage facilities provided for spillage
- Water supply meet CDH standards
- Adequate water supply
- Individual drinking cups are provided

Excreta and Liquid Waste Disposal:

- Effective sewage disposal facility provided
- Waste connected to public system if available
- Privies or portable toilets provided (if needed)
- Facilities in good working order
- Liquid waste discharging properly; not accumulating on ground.

Housing:

- Housing is structurally sound and in good repair
- Housing provides protection against elements
- Floors are smooth, cleanable surfaces
- There is 50+ square feet per person for Sleeping using single beds
- There is 40+ square feet per person for Sleeping using double bunk beds
- Housing is sanitary and in good repair
- Housing provides protection against Elements
- If carpeting is in housing unit, must provide vacuum cleaner
- Occupancy limits are maintained
- Occupancy limits are maintained
- Bunk beds must measure 36" top mattress to ceiling, 27" top of bottom mattress to bottom of top bunk, 12" floor to bottom of bottom mattress.

Regulations Related to Basic Structure**Regulations Related to Ongoing Maintenance**

Housing continued:

- There is 60+ square feet per person for combined cooking, eating, sleeping
- Family housing has separate sleeping area for parents if children are > 6 years
- Separate sleeping facilities are provided for m/f when not family
- Separate sleeping facilities are provided For each family
- Ceiling height > 7" for ½ floor area
- Window space > 10% of usable floor space
- Total space is > 45% of minimum window area required or there is additional ventilation
- Occupancy limits are maintained
- Separation is maintained
- Separate sleeping facilities provided
- Windows will open

Screening:

- Opening screened with 16 mesh
- There is a screen door
- Screen door has self-closing device
- No holes in screens
- Screen door in good repair and tight fitting
- Device is operable

Heating:

- Heating equipment is available if Temperatures fall below 68 degrees
- Venting is proper for units using Combustible fuel
- Solid/liquid fuel stoves must have adequate Fire proofing on floor, walls, ceiling
- Heating pipes are of fireproof materials
- Vents and stovepipes have metal collar
- Heating equipment installed properly and works
- Venting is operable
- Only electric portable heaters are permitted
- Carbon Monoxide detector suggested (not-required)

Regulations Related to Basic Structure**Regulations Related to Ongoing Maintenance**

Electricity:

- Electricity is provided
- There is a ceiling or wall fixture in each room
- There is a wall outlet in each room
- Adequate yard lighting is provided
- All wiring and lighting fixtures work and are in safe conditions

Cooking and Eating Facilities:

- Space and equipment is provided for family cooking and eating
- Stove or 2 burners/10 persons
- Cooking space includes shelves and counter space
- Refrigerator maintains temperature < 45 degrees
- Table/chairs are commensurate with capacity of unit
- Lighting and ventilation is adequate
- Sinks with hot/cold water under pressure provided
- Central mess is separate from sleeping quarters
- Walls are nonabsorbent, cleanable materials
- Walls adjacent to cooking areas are fire resistant
- Equipment is in good working order
- Cooking area is sanitary and in good working order

Garbage and Other Refuse:

- One fly-tight 20 gallon refuse container provided per 15 persons
- Refuse collected 2/week or more as necessary per 15 persons

Insect and Rodent Control:

- All housing and facilities are free of rodents, insects and vermin
- All housing and facilities are free of rodents, insects, and vermin

Regulations Related to Basic Structure

Regulations Related to Ongoing Maintenance

Sleeping Facilities:

- One bed/bunk/cot per person is provided including clean mattresses and mattress covers
- Double bunks must have 27" between; 36" from top to ceiling. No triple bunks
- Double beds are for family use only
- Occupancy limits are maintained
- If linens are provided, they must be kept clean

Fire, Safety, and First Aid:

- Building used for sleeping and eating meets fire And safety laws
- There are two exits or means of fire escape in Buildings or one story of < 10 persons
- Dormitories, central dining rooms, common rooms for > 10 persons have two remotely separated doors for fire escape
- Rooms on second story have permanently Affixed ladder
- Fire Extinguishers are provided 2 ½ Gallon ABC type
- First Aid facilities are provided
- No volatile or flammable liquids are stored in Or near living quarters
- No pesticides or toxic chemicals are stored in or Near living quarters
- Exits are clear and operable
- Exits are clear and operable
- Fire extinguishers are operable
- First aid supplies are complete

Posting Requirements:

- The MSPA (Migrant and Seasonal Protection Act) Poster must be prominently displayed. You can request that one be sent to you by Wage & Hour or Colorado Office of Employment and Training.
- Conditions of housing residency must be posted: free or rental (\$); damage deposit, if applicable; other requirements, rules, etc.
- Preoccupancy inspection certificate stating that the housing meets the requirements for occupancy must be posted before occupancy. Inspections will be provided by the local Colorado Employment and Training Office within 45 days of request for inspection. You must request an inspection to obtain one. If the housing has not been inspected within 45 days, it may be occupied.

Worksheet for Monitoring Migrant Farm Worker Housing Requirements

Address: _____

Year: _____

Pre-Occupancy Inspection completed Yes ___ No ___

Key: + = Okay
 - = Needs Work
 √ = Work Completed

Week	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Date														
List															
Occupancy															
Grounds															
Septic System															
Water Supply															
Exits															
Screens															
Windows															
Heating Equipment															
Wiring/lighting															
Toilets															
Cooking Equipment															
Garbage															
Insects/rodents															
Clean/sanitary															
Fire extinguisher															
First aid Kit															
Toxic/flammable containers/substance															
Basic Structure															

HOUSING TERMS AND CONDITIONS

Important Notice to Migrant Agricultural Worker: The Migrant and Seasonal Agricultural Worker Protection Act require the furnishing of the following information.

1. This housing is provided by:

Name:

Address:

2. Individual(s) in charge:

Name:

Address:

3. Mailing address of housing facility

Address:

City & State/Zip Code

Phone:

4. Conditions of Occupancy

Who may live in housing facility

Charges made for housing (if none, so state)

Meals Provided (if none, so state)

Charges for utilities (if none, so state)

Other changes, if any

Other conditions of occupancy

Important Notice to Farm Labor Contractor, Agricultural Employer, or Agricultural Association:

This form may be used for the disclosure required by section 201© of the act. It must be posted in a conspicuous place or presented to each worker in English, Spanish or another language, as appropriate.

CONDICIONES DE OCUPACIÓN DE LA VIVIENDA

Aviso Importante para el Trabajador Migrante en la Agricultura: La Ley de protección de Trabajadores Migrantes Y Temporales en la Agricultura exige que Ud. Conozca los informes siguientes.

1. Dueño de la vivienda (casa, apartamento, etc.)

Nombre:

Dirección:

2. Persona encargada de la vivienda

Nombre:

Dirección:

3. Dirección de la vivienda

Dirección:

City & State/Zip Code

Teléfono:

4. Condiciones de Ocupación

Personas que pueden ocupar la vivienda

Renta por semana \$ por mes \$ (Si no se cobra, escriba "Ningún costo al trabajador")

Comida (si no proporciona comida, escriba "Ninguna comida")

Costo de la luz, el agua, el gas, etc. (si no hay costo, escriba "ningún costo al trabajador")

Cualquier otro costo

Otras condiciones de ocupación

Aviso Importante Para el Contratista de Mano de Obra Agrícola (el Troquero), el Patrón, o la Asociación Agrícola:

Puede utilizar esta forma para darles a los trabajadores migrantes los informes que exige la sección 201© de la ley. Tiene que exhibirlo en un lugar donde puedan verlo fácilmente los trabajadores o presentarle una copia a cada trabajador, y tiene que presentarlo en inglés, en Español, o en otro idioma que sea apropiado.



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Departamento de Trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas

An example of a possible Grower's Tenant's Agreement

Any Farm USA

Labor House/Meal Service Agreement

Housing Availability

There is limited employee housing available on the farm. Housing is available on a contract basis. Since the housing is limited, employees will be housed there on a first come, first served basis. Anyone not currently employed by Any Farm USA may not live there. Employees living in the labor house will also be in the food service plan. Housing is available after April 1st and food service will commence shortly after the house is full. The labor house will be closed after December 1st.

Housing Fees

The housing and food service is partly subsidized by Any Farm USA. The fees that are charged are for maintenance, normal repairs, cooking, supplies, utilities, and housekeeping. For employee's convenience, Any Farm USA completes the bookkeeping and deducts charges from employee checks. Any Farm USA does not make a profit on either the labor house or on the food service. We help provide these services as a benefit to our employees. The charge for living here is \$_____ each month.

Cleanliness

Employees are responsible to keep the facility clean, both inside and outside. All personal items must always be stowed in the space provided. Employees that cannot maintain a reasonable degree of cleanliness will be expelled from the facility. Any Farm USA is not responsible for loss or theft of personal items. Only employees currently working are permitted to live in Any Farm USA housing facilities.

Damage

Any damage to housing or meal facilities will result in a payroll deduction for repairs. Deliberate damage to any facilities will result in the loss of all housing and meal privileges and other disciplinary action up to and including termination of employment.

Deposits

Each employee will pay a refundable damage deposit of \$30.00 and sign a rental agreement before moving into any Any Farm USA housing facility. The deposit may be deducted from the first check. Each employee must give two days notice to the office before leaving the housing facility. Rent and maintenance fees will be deducted from the employee check until notice is received. Refunds on housing deposits will be given only after such notice is received and it has been determined that there are no charges against the deposit.

Guests

Guests are not allowed to stay overnight. Anyone not currently employed by Any Farm USA is not allowed to live in housing subsidized by Any Farm USA. Visitors to the labor house are not allowed during the work hours or after 10 PM work days and 12 AM weekends and must be with an employee at all times.

Housing Agreement

Employees that are found using the facility without having completed a housing agreement will be subject to disciplinary action, and will be requested to find alternative housing.

Meals

All employees living in the labor house will be charged for regular meals. There are no exceptions. Meals will be charged at \$2.50 per meal. Lunch and dinner will be served Monday through Saturday. Others may use the meal services on a cash basis. Anyone found eating without paying will have housing and meal privileges revoked.

Federal Regulations

Both Wage and Hour and OSHA make frequent and unannounced inspections. Non-compliance may result in substantial fines for each violation. We appreciate your cooperation in keeping housing in excellent condition so that it meets housing regulations.

Some of the regulations are:

- Beds must be at least 12” off the floor
- Trash must be emptied daily into barrels. The barrels must be emptied into trash dumpsters and the dumpster lid must be kept closed
- All dry food must be covered
- Screens must always be in place on windows and doors no holes or rips in screens
- All food must be kept in the refrigerator and not left on stoves
- Bottles, cans, and other trash must be disposed of properly

Housing Agreement Acknowledgement:

By signing below, I acknowledge I have read and agree to abide by the above Any Farm USA Labor Housing and Meal Service Agreement.

Employee Signature

Date

Note: Employers are cautioned that although it is permissible to make payroll deductions, the resulting gross wages (before taxes, Social Security, etc.,) must not be less than the applicable minimum wage.

Contrato de Vivienda y Servicio de Comida

Disponibilidad de Vivienda

Hay poco espacio disponible en la vivienda para los empleados de Any Farm USA. Se obtiene vivienda solo por medio de un contrato. Ya que hay poco espacio en la vivienda, los empleados que lleguen primero recibirán espacio primero. Solo las personas empleadas en Any Farm USA pueden vivir en esta vivienda. Todos los empleados que reciben vivienda también recibirán el servicio de las comidas. Se puede ocupar la vivienda después del primero de Abril y las comidas comenzaran poco después. La vivienda se cerrara después del primero de Diciembre.

Gastos de Vivienda

El gasto para vivir aquí es \$_____ cada mes/semana. La vivienda y la comida son pagadas en parte por Any Farm USA. Los gastos que se cobran incluyen el mantenimiento y reparaciones normales de la vivienda, luz y agua, y quehaceres domésticos (el cocinar, provisiones). Para la comodidad de los empleados, _____ se encargara de la contabilidad y deducirá los gastos de los cheques de los empleados. Any Farm USA no recibe beneficio monetario de la vivienda ni del servicio de la comida. Solo ofrecemos estos servicios como beneficio a nuestros empleados.

Limpieza

Los empleados son responsables de mantener la vivienda limpia tanto afuera como adentro. Todos los objetos personales deben ser guardados en el lugar dado. Se les negara la oportunidad de vivir en esta vivienda a aquellos empleados que no participan en mantener la limpieza. Any Farm USA no tomara responsabilidad por la perdida o robo de objetos personales. Solo los empleados actualmente trabajando para Any Farm USA pueden vivir en la vivienda.

Daños

Cualquier daño de la vivienda o comedor resultara en rebajas del cheque del empleado para pagar las reparaciones. Perderá el derecho de vivienda y los servicios de comida aquel empleado que deliberadamente dañe la vivienda o los muebles. Dependiendo del daño, se le obligaran a pagar y puede ser corrido del trabajo. En caso que no se pueda determinar quien fue el responsable del daño, entre todos los residentes pagaran la cantidad del daño.

Depósitos

Cada empleado pagara \$20.00 dólares como deposito para danos, y firmara un contrato de alquiler antes de instalarse en cualquier vivienda de Any Farm USA. Los \$30.00 dólares de deposito serán devueltos cuando se termine el trabajo si se comprueba que el empleado no cuso ningún daño a la vivienda ni a los muebles. El depósito de \$30.00 dólares se puede rebajar de su primer cheque. Cada empleado debe notificar a la oficina dos días antes de mudarse de la vivienda. De lo contrario, se continuara deduciendo renta y mantenimiento del cheque del empleado hasta que la oficina haya recibido noticia de una mudanza. Los depósitos de vivienda solo serán devueltos después de notificar la oficina y después de determinar las necesarias deducciones para reparación de los danos.

Huéspedes

No se permite a los visitantes quedarse a pasar la noche. No se permite que nadie viva en la vivienda si no es actualmente empleado de Any Farm USA. No se permite visitas durante horas de trabajo, ni después de las 10 de la noche los días de la semana, ni después de las 12 de la noche los fines de semana. Todos los visitantes deben permanecer en la compañía de un empleado.

Contrato de Vivienda

Los empleados que no han completado el contrato de vivienda recibirán medidas disciplinarias y además, se les pedirá que busquen otra vivienda.

Comida

Todos los empleados viviendo en la vivienda pagaran por la comidas. Las comidas cuestan \$2.50 dólares cada una. Se servirá almuerzo y cena entre lunes y sábado. Otros empleados podrán comer allí pagando en efectivo. Si se encuentra que alguien no ha pagado se le quitaran todos los derechos de vivienda y comida.

Regulaciones Federales

Representantes de la agencia Federal - Wage & Hour o OSHA harán varias inspecciones con multas muy caras. Wage & Hour o OSHA también pueden obligar a Any Farm USA cerrar permanentemente esta vivienda. Si algún trabajador que viva en este lugar es el responsable de la infracción, el deberá pagar la multa.

Algunas reglas de Wage & Hour son:

- Las camas deben estar por lo menos 12 pulgadas del suelo
- La basura se debe vaciar diariamente en los tambos grandes afuera y tapan el tambo
- Todas las ventanas y puertas deben tener mosquiteros (telas). Las mosquiteros siempre deberla estar cerrados y sin romper o agujeros
- Se debe tirar apropiadamente todas las botellas, latas y otros objetos
- Se debe guardar toda comida en la helera y no sobre la estufa o la mesa, esto incluye los blanquillos (huevos)
- Toda comida seca debe ser cubierta.

Reconocimiento del Contrato de Vivienda

Al firmar abajo, reconozco que he leído y aseguro obedecer el contrato de vivienda y servicio de comida de Any Farm USA.

Firma del Empleado

Fecha

Renta es _____ por cada ciclo de pago.

A TODOS LOS OCUPANTES DE ESTA CASA
To ALL OCCUPANTS OF THIS HOUSE

ESTA CASA Y SUS MUEBLES SON PARA EL USO DE USTED Y SU FAMILIA
MIENTRAS ESTEN EMPLEADOS CON ANY FARM USA
THIS HOUSE AND FURNISHINGS ARE PROVIDED FOR YOUR USE
WHILE YOU AND YOUR FAMILY ARE EMPLOYED BY ANY FARM USA

LAS SIGUIENTES REGLAS SERAN CUMPLIDAS
THE FOLLOWING RULES MUST BE COMPLETED WITH

1. **ESTA CASA Y SUS ALREDEDORES SIEMPRE TIENEN QUE ESTAR LIMPIOS**
THIS HOUSE AND IT'S SURROUNDINGS MUST BE KEPT CLEAN AT ALL TIMES
2. **LAVEN LOS PLATOS Y CAZUELAS DESPUES DE CADA COMIDA**
ALL DISHES AND COOKING UTENSILS MUST BE WASHED AFTER EACH MEAL
3. **PONGA TODA LA BASURA Y BOTES DE LATA EN EL TAMBO DE BASURA – NO LOS TIREN EN EL SUELO ALREDEDOR DE LA CASA**
GARBAGE AND TIN CANS MUST BE DISPOSED OF IN THE GARBAGE BARREL – DO NOT THROW GARBAGE ON THE GROUND OUTSIDE OF THE HOUSE
4. **NO ARRANQUEN LOS BASTIDORES (TELAS) DE LAS VENTANAS O LAS PUERTAS – SON PARA PROTEGERLOS DE LAS MOSCAS PARA EVITAR ENFERMEDADES**
SCREENS FOR WINDOWS AND DOORS HAVE BEEN PROVIDED AND MUST NOT BE TORN OFF – THIS IS TO KEEP FLIES OUT TO PROTECT YOU AND THE FARMERS AGAINST DISEASE
5. **CUALQUIER DESTROSO A LAS PAREDES O MUEBLES O ARTICULOS PERDIDOS SERAN COBRADOS Y REBAJADOS DE SU SUELDO**
ANY UNNECESSARY DAMAGE DONE TO THE WALLS OR CONTENTS OR ANY ARTICLES MISSING UPON YOUR DEPARTURE WILL BE CHARGED AGAINST YOU AND COLLECTED FROM YOUR EARNINGS
6. **AL COMPLETAR SU TRABAJO, LIMPIE BIEN LA CASA ANTES DE QUE USTED SE VAYA**
THIS HOUSE MUST BE THOROUGHLY CLEANED BEFORE YOU LEAVE, UPON COMPLETION

HOUSING INSPECTION CHECK LIST
OSHA MIGRANT HOUSING STANDARDS
 (For housing built after April 3, 1980)

Date: _____ Employer Name: _____

Housing Site Address: _____

Description of housing unit: _____

HOUSING SITE	YES	NO
1. Is the site itself adequately drained (at least 200 feet from stagnating pools, sink holes, or other surface collections of water)?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is drainage from and through the site such that it will not endanger the water supply? Where, for example, is the well located? Is it adequately sealed to prevent contamination from entering?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the site free from depressions in which water may become a nuisance during wet weather or flash floods?	<input type="checkbox"/>	<input type="checkbox"/>
4. In single-family housing camps, are the houses adequately spaced apart to prevent overcrowding?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the house in which food is prepared and served, and where sleeping quarters are located, at least 500 feet from any area in which livestock is kept?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the site around the houses maintained in a clean and sanitary condition free from rubbish, debris, waste paper, garbage, or other refuse?	<input type="checkbox"/>	<input type="checkbox"/>
7. When the house is closed for the season (or permanently), is the garbage and other refuse collected and disposed of so as to prevent a nuisance?	<input type="checkbox"/>	<input type="checkbox"/>
8. Are all abandoned privy and garbage pits filled with earth, and the grounds and buildings left in a sanitary condition at the close of the season?	<input type="checkbox"/>	<input type="checkbox"/>
9. At the end of occupancy, are the privy buildings locked or otherwise secured to prevent the entrance of rodents and protection from the elements?	<input type="checkbox"/>	<input type="checkbox"/>

HOUSE (OR SHELTER)

10. Is the house constructed and maintained in a manner that will provide adequate protection against the elements? Are the roof and walls in good repair?	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------

		YES	NO
11.	Do beds (or cots and bunks if appropriate), have clean mattresses, and suitable storage facilities (such as wall lockers for clothing and personal articles) are provided in every room used for sleeping purposes?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Are beds at least 36 inches apart from each other and at least 12 inches above the floor?	<input type="checkbox"/>	<input type="checkbox"/>
13.	If bunk beds are used, are they at least 48 inches apart from other beds?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Are triple-deck bunks being used? (They are prohibited.)	<input type="checkbox"/>	<input type="checkbox"/>
15.	Are the floors in each house constructed of wood, asphalt, or concrete?	<input type="checkbox"/>	<input type="checkbox"/>
16.	Are floors kept in good repair? (Free from splinters, holes and nails.)	<input type="checkbox"/>	<input type="checkbox"/>
17.	If floors are wood, are they smooth, of tight construction, and elevated not less than one foot above the ground to prevent dampness and permit free circulation of air beneath?	<input type="checkbox"/>	<input type="checkbox"/>
18.	Are living quarters provided with windows in each room? (Window area not less than 10% of floor space.)	<input type="checkbox"/>	<input type="checkbox"/>
19.	Are the windows constructed so that at least one-half of each window can be opened for purposes of ventilation (and escape in event of fire)?	<input type="checkbox"/>	<input type="checkbox"/>
20.	Are all windows and outside doors equipped with screens (standard 16 mesh material) and is the screen door equipped with a self-closing spring or similar device?	<input type="checkbox"/>	<input type="checkbox"/>
21.	Does each room used for sleeping purposes contain at least 50 square feet of floor space for each occupant?	<input type="checkbox"/>	<input type="checkbox"/>
22.	Does the house where workers cook, live, and sleep have a minimum floor space of 100 square feet per occupant? (And have at least a seven foot ceiling.)	<input type="checkbox"/>	<input type="checkbox"/>
23.	Are sanitary facilities for storing and preparing food provided in each family unit? Kitchen, for example, must contain cupboards or shelves, table and chairs, and a working refrigerator. Central feeding facilities must comply with the requirements of the "Food Service Sanitation Ordinance and Code".	<input type="checkbox"/>	<input type="checkbox"/>

- | | | YES | NO |
|-----|--|--------------------------|--------------------------|
| 24. | Is the heating, cooking, and water heating equipment installed in accordance with State and Local ordinances, codes, and regulations governing such installation? Is the hot water heater vented to the outside? | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. | If the house is used during cold weather, is adequate heating equipment provided? | <input type="checkbox"/> | <input type="checkbox"/> |

WATER SUPPLY

- | | | | |
|-----|---|--------------------------|--------------------------|
| 26. | Does each housing site have an adequate and convenient water supply for drinking, cooking, bathing, and laundry purposes? | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | Has the drinking water supply been approved by the appropriate health authority? | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | If water is not piped into the house, is water available within 100 feet of the house? | <input type="checkbox"/> | <input type="checkbox"/> |
| 29. | If a central water source is used by more than one family, are common drinking cups permitted? (They are prohibited.) | <input type="checkbox"/> | <input type="checkbox"/> |

TOILET FACILITIES

- | | | | |
|-----|--|--------------------------|--------------------------|
| 30. | Are toilet facilities adequate for the size of the shelter or camp? (One unit for each 15 persons.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | Does each toilet room have a window not less than 6 square feet in area opening directly to the outside area or otherwise satisfactorily ventilated? | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | Are all ventilation openings on the toilet screened with standard 16 mesh material? | <input type="checkbox"/> | <input type="checkbox"/> |
| 33. | Are outdoor toilets located within 200 feet of the shelter but no closer than 100 feet? | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | If toilet rooms are shared, such as in multi-family shelters, and in barracks type facilities, are separate toilet facilities provided for each sex? These rooms shall be marked "Men" and "Women". | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | Is each toilet room or outdoor privy lighted naturally or artificially by a safe type of lighting at all hours of the day and night? (Porch or yard light may be used as artificial lighting for outdoor privy.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | Is toilet paper available in each privy, water closet, or chemical toilet compartment? | <input type="checkbox"/> | <input type="checkbox"/> |

YES NO

37. Is each privy or toilet room kept in a sanitary condition? (They must be cleaned daily if necessary.)

SEWAGE DISPOSAL FACILITIES

38. If public sewers are available at the site, are all sewer lines and floor drains from the building connected? No sewage seepage shall be permitted on the ground surface.

LAUNDRY, HAND WASHING, AND BATHING FACILITIES

39. In each house equipped with a hand wash basin one per six (6) persons in shared facilities?
40. Is each site equipped with a shower facility (one shower head for each ten persons)?
41. Does each site have a laundry tray or tub for every 30 persons?
42. Is there a slop sink in each service building used for laundry, hand washing, and bathing?
43. Are floors in laundry rooms of smooth finish (but not slippery) and impervious to moisture?
44. Are floor drains provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning?
45. Are junctions between the curbing and the shower floor covered?
46. Are the walls and partitions of shower rooms smooth and impervious to the height of the splash?
47. Is there an adequate supply of hot and cold running water provided at each site for bathing and laundry purposes?
48. Does each site have a working stove or facilities for cooking and heating water? Are cooking facilities provided for each family unit?
49. If a central service building is used for laundry or bathing, is it provide with equipment capable of maintaining a temperature of at least 70°F during cold weather?
50. Are facilities (clotheslines or dryer) provided at each site for drying clothes?
51. Are all service buildings (laundry, shower, etc.) being kept clean?

		YES	NO
LIGHTING			
52.	If electricity is available at the housing site, does each habitable room in the house have at least one ceiling-type light fixture and at least one wall or floor receptacle?	<input type="checkbox"/>	<input type="checkbox"/>
53.	Does each laundry room and bathroom have at least one ceiling or wall-type light fixture and receptacle?	<input type="checkbox"/>	<input type="checkbox"/>
REFUSE DISPOSAL			
54.	Are garbage cans available at each site, and are they fly-tight and rodent-tight? (Must have lids.)	<input type="checkbox"/>	<input type="checkbox"/>
55.	is at least one garbage can or disposal source available for each house, and located within 100 feet of the house? Are garbage cans placed on a wooden, metal, or concrete stand?	<input type="checkbox"/>	<input type="checkbox"/>
56.	Are garbage containers kept clean?	<input type="checkbox"/>	<input type="checkbox"/>
57.	Are garbage containers emptied when full, but not less than weekly when in use?	<input type="checkbox"/>	<input type="checkbox"/>
INSECT AND RODENT CONTROL			
58.	Are adequate measures taken to prevent infestation and harborage of insects, rodents, and pests?	<input type="checkbox"/>	<input type="checkbox"/>
FIRST AID			
59.	Is a first aid kit available at the site for the emergency treatment of injured persons?	<input type="checkbox"/>	<input type="checkbox"/>
GENERAL			
60.	Is the grower aware they are to immediately report to the local health office the name of any individual at the site who is known or suspected of having a communicable disease?	<input type="checkbox"/>	<input type="checkbox"/>
61.	Is the grower aware that any case of suspected food poisoning or an unusual prevalence of fever, diarrhea, sore throat, vomiting, or jaundice is to be reported immediately to the nearest health authority by telegram or telephone?	<input type="checkbox"/>	<input type="checkbox"/>

Housing Inspection Checklist
(20 CFR 654)
For housing built before April 3, 1980

DATE: _____ LOCAL OFFICE: _____

EMPLOYER

ADDRESS

COUNTY

Current or anticipated number of occupants: _____

Description of housing: _____

KEY TO MAKING ENTRIES ON CHECKLIST

Check if housing meets prescribed standards

Enter if housing does not meet prescribed standards

Enter if not applicable at time of inspection

NOTE: On all items to which the Secretary's Regulation or other State or Local regulation, apply the more stringent provision is to prevail.

Inspected by: _____ Date _____
(Signature of SESA Inspector)

Inspected by: _____ Date _____
(Signature of Inspector other than SESA)

HOUSING INSPECTION CHECKLIST

654.404 Housing Site

- ___ a. Located where sewage disposal neither creates nor is likely to create a nuisance or a hazard to health.
- ___ b. Well drained and free from depressions?
- ___ c. Offensive odors, flies, noise, traffic or similar hazards?
- ___ d. Debris, noxious plants, weeds, etc.?
- ___ e. Space for recreation?

654.405 Water Supply

- ___ a. Adequate and meets _____ approval?
- ___ b. Cold water tap 100 feet from each individual living unit?
 - ___ 1. Adequate drainage facilities at water tap for overflow?
- ___ c. No common drinking cup?

654.406 Excreta & Liquid Waste Disposal

- ___ a. Effective facilities provided?
- ___ b. Liquid waste not discharged or allowed to accumulate on ground surface?
- ___ c. Facilities connected to public sewers when available?
 - ___ 1. Other systems approved by appropriate agency.

654.407 Housing

- ___ a. Structurally sound? ___ In sanitary condition? ___ Provides protection against elements? ___ In good repair? ___
- ___ b. Floors of rigid materials, smooth finish, readily cleanable and located so as to prevent entrance of surface water?
- ___ c. Sufficient floor and air space for current or anticipated camp occupants?

NOTE: No floor space shall be counted toward minimum requirements where ceiling height is less than five (5) feet.

MINIMUM STANDARDS

1. Sleeping only, single beds (family, dormitory) – 50 sq. ft. per occupant.
2. Sleeping only, double bunks (dormitory) – 40 sq. ft. per occupant.
3. Cooking, eating, and sleeping – 60 sq. ft. per occupant.

- ___ d. Room or rigid partitioned sleeping area for husband and wife with children over 6 years of age to provide reasonable privacy?
- ___ e. Separate sleeping accommodations for each sex or family?
- ___ f. Adequate and separate arrangements for hanging clothes and storing personal effects?
- ___ g. Half floor area have minimum ceiling height of 7 feet?
- ___ h. One window or skylight, each habitable room and opening directly to out of doors.
- ___ 1. Minimum total window or skylight area, including windows in doors, equal to 10 % of usable floor area?
- ___ 2. 45% minimum window area open able or adequate skylight provided except where mechanical or other ventilating devices are provided which are comparably adequate?

654.408 Screening

- ___ a. All outside openings screened minimum 16 mesh?
- ___ b. Screen doors tight fitting? _____ and equipped with self-closing devices? _____

654.409 Heating

- ___ a. Living quarters and service rooms provided with adequate, properly installed, operable heating equipment, if needed?
- ___ b. Stoves properly installed, vented and fireproof material under stoves on combustible flooring – no portable heaters other than electrical?
- ___ c. Walls, ceiling within 18” of solid or liquid fuel stove or stove pipe constructed of fireproof material?
- ___ d. Vented metal collar around stove pipe or vents?
- ___ e. With automatic controls, proper type automatic fuel cutoff?
- ___ f. Capable of providing 68° minimum?

HOUSING INSPECTION CHECKLIST

654.410 Electricity and Lighting

- ___ a. Electric services available?
- ___ b. Adequate light fixtures each habitable room ____; common use of laundry ____; shower ____; privies ____; hallways ____; stairways ____?
- ___ c. Wall outlet each living room?
- ___ d. Adequate yard area lighting?
- ___ e. Wiring and lighting in safe condition?

654.411 Toilets

- ___ a. Constructed, located and maintained to prevent nuisance or health hazard?
- ___ b. One water closet or privy seat for each 15 occupants of same sex?
- ___ c. Urinals, if any, properly constructed?
- ___ d. Separate toilet accommodations for men and women except in family units?
 - ___ 1. Solid wall, floor to roof or ceiling between men and women's toilets in same building?
 - ___ 2. Properly marked (English and native language)?
- ___ e. Toilet tissue furnished?
- ___ f. Toilets and privies well lighted, ventilated, clean and sanitary?
- ___ g. Within 200 feet of each living unit?
- ___ h. Privies not closer than 50 feet from any living unit or food facilities?
- ___ i. Privy structures and pits fly tight?
- ___ j. Meets applicable provisions of pertinent State and Local law?

HOUSING INSPECTION CHECKLIST

654.412 Bathing, Laundry, and Hand washing

- ___ a. Supplied with hot and cold water under pressure?
- ___ 1. Facilities clean and sanitary?
- ___ 2. Facilities within 200' of each living unit?
- ___ b. One shower head per 15 persons?
- ___ 1. Adequate dry dressing space in common use facilities?
- ___ 2. Shower heads spaced 3' apart with minimum of 9 square feet floor space?
- ___ 3. Shower floors and drains properly constructed?
- ___ 4. Separate shower facilities for each sex (except in family units)?
- ___ 5. Solid non-absorbent wall from floor to ceiling or roof between showers facilities for both sexes in same building?
- ___ 6. Showers properly marked (English and native language)?
- ___ c. Lavatories or equivalent units in ratio of 1 to 15 occupants provided?
- ___ d. Laundry facilities supplied with hot and cold water under pressure?
- ___ 1. Sufficient laundry facilities provided?

NOTE: One tub or tray per 25 persons; or mechanical washers one per 50 persons (with minimum of one tub per 100 persons).

654.413 Cooking and Eating Facilities

- ___ a. Space provided and equipped for cooking and eating in individual units?
- ___ 1. Cook stove or hotplate with minimum of two (2) burners provided?
- ___ 2. Adequate food storage shelves?
- ___ 3. Counter for food preparation?
- ___ 4. Technical refrigerator provided (maximum temperature 45°)?
- ___ 5. Table and chairs or equivalent seating and eating arrangement provided?

HOUSING INSPECTION CHECKLIST

- ___ 6. Adequate light and ventilation?
- ___ b. Space provided for cooking and eating in common facility?
 - ___ 1. Separate from sleeping facilities?
 - ___ 2. Provided with one stove or 2 burner hotplate for each 10 persons or two families?
 - ___ 3. Adequate food storage shelves?
 - ___ 4. Counter for food preparation?
 - ___ 5. Mechanical refrigerator (maximum temperature 45°)?
 - ___ 6. Adequate tables and chairs?
 - ___ 7. Adequate sinks with hot and cold water under pressure?
 - ___ 8. Adequate light and ventilation?
 - ___ 9. Floors of nonabsorbent and easily cleaned materials?
- ___ c. Central mess facilities in proper proportion to capacity of housing?
 - ___ 1. Separate from sleeping quarters?
 - ___ 2. Facilities equipped and operated in accordance with State codes?
- ___ d. Wall surface adjacent to food preparation and cooking areas of nonabsorbent, easily cleaned, fire resistant materials?

654.414 Garbage and Other Refuse

- ___ a. Fly-tight 20 gallon containers provided adjacent to each housing unit.
 - ___ 1. Containers provided in minimum ratio of 1 to 15 persons.
- ___ b. Garbage collection at least twice a week?
- ___ c. Disposal of refuse in accordance with State code?

654.415 Insect and Rodent Control

- ___ Housing and facilities shall be free of insect, rodents and other vermin?

HOUSING INSPECTION CHECKLIST

654.416 Sleeping Facilities

- ___ a. Comfortable beds, cots or bunks with clean mattresses and mattress covers, when required, provided for each person. (Bunks or beds to be placed no closer than 30" side to side or end to end)?
- ___ b. Bedding provided by camp operator is clean and sanitary?
- ___ c. No triple deck bunks?
- ___ d. Proper clearance above and below sleeping facilities?
- ___ e. Double beds occupied by two people in family combinations only?

NOTE: Clear space above top of the lower mattress of a double deck bunk and the bottom of the upper bunk bed: 27" minimum; distance from top of the upper mattress to ceiling: 36" minimum.

654.417 Fire, Safety and First Aid

- ___ a. Habitable building constructed and maintained in conformity to State or Local fire and safety laws (Note: especially wiring, ventilation, required insulation, exits, etc.)?
- ___ b. Two means of escape provided: open able space of 24" X 24" may be provided as second means of escape from family housing or units with less than 10 persons of 1-story construction?
- ___ c. For 10 or more persons, two doors separated provided as means of egress from sleeping quarters, central dining facility and common assembly rooms?
- ___ d. Second story sleeping quarters and common assembly room have stairway and a permanently affixed exterior ladder or a second stairway?
- ___ e. Sleeping and common assembly rooms located above second story comply with State and Local fire and building codes?
- ___ f. Fire extinguishing equipment provided in readily accessible place?
 - ___ 1. Fire extinguishing equipment provides protection equal to 2 ½ gallon stored pressure or 5-gallon pump-type water extinguisher?
 - ___ 2. Fire extinguishing equipment provided within 100 feet from each housing unit?

HOUSING INSPECTION CHECKLIST

- ___ g. First aid facilities equivalent to 16-unit first aid kit provided in ratio of 1 to 50 persons?
 - ___ 1. Readily accessible for use at all times?
- ___ h. No flammable or volatile liquids stored adjacent to rooms used for living purposes?
- ___ i. Agricultural pesticides and toxic chemicals not stored in housing area?



A. IDENTIFYING INFORMATION		
<p>1. Location of housing inspected.</p> <p>Description of housing units and number of units.</p>		
<p>2a. Name and address of owner of housing unit.</p>	<p>3a. Name and address of individuals in charge.</p>	
<p>2b. Phone</p>	<p>3b. Phone</p>	
<p>4a. Name and address of Farm Labor Contractor if any.</p>	<p>5. Date inspection was requested.</p>	
<p>4b. Registration No.</p>	<p>6. Expected dates of occupancy</p> <p style="margin-left: 40px;">From:</p> <p style="margin-left: 40px;">To:</p>	
B. CERTIFICATION		
<p>The housing identified above has been inspected by the undersigned and found to meet the substantive Safety and health standards prescribed in one of the following Department of Labor regulations</p> <p><input type="checkbox"/> 29 CFR 1910 142 Occupational Safety and Health Administration Regulations</p> <p><input type="checkbox"/> 20 CFR Part 654 Employment and Training Administration Regulations</p> <p>The definition of substantive safety and health standards is given in 29 CFR 500 133</p>		<p>Date of inspection</p>
		<p>Date certificate expires</p>
<p>Special Conditions (if none, write none)</p>		
<p>Area Office or Field Station Address</p>	<p>_____</p> <p style="text-align: center;">(Signature and Title of Person Issuing Certificate)</p>	<p>_____</p> <p style="text-align: center;">(Date issued)</p>
<p>IMPORTANT NOTICE: A copy of this certificate must be posted at the site of the housing identified above. This certificate is valid for one year from the date of issuance. If after one year from the date of the certificate the property identified above is to be utilized to house migrant workers, a new certificate must be requested.</p> <p>The original of this certificate must be kept as a record for three years from the date of issuance.</p> <p>This inspection certificate does not relieve any person from compliance with the applicable state, county or local ordinance. Receipt and posting of this certificate of occupancy does not relieve the persons who own or control this facility or property from the responsibility of ensuring that such facility or property meets the applicable State and Federal Safety and health Standards. Once such facility or property is occupied, such person shall supervise and continually maintain such facility or property to ensure that it remains in compliance with the applicable safety and health standards.</p>		

U.S. DEPARTMENT OF LABOR Employment and Training Administration EMPLOYER FURNISHED HOUSING AND FACILITIES <i>(see instructions on reverse)</i>					1. Employer Name and Address						
2. Housing Location					3. Housing Description						
4. Sleep Rooms (no. & Measurements)	a. Dormitory Type				b. Family Type				ES USE ONLY		
	1	2	3	4	1	2	3	4	5. CAPACITY (Adults)		
Length									6. REGULATIONS COMPLIANCE <i>("X" proper box)</i>		
Width									Yes	No	
Ceiling Height									Water	<input type="checkbox"/>	<input type="checkbox"/>
Square Feet									Electricity	<input type="checkbox"/>	<input type="checkbox"/>
No. of Rooms									Site	<input type="checkbox"/>	<input type="checkbox"/>
No. of Beds, Single									Screening	<input type="checkbox"/>	<input type="checkbox"/>
No. of Beds, Bunks or Doubles									Heating	<input type="checkbox"/>	<input type="checkbox"/>
7. FACILITIES <i>(Number of each)</i>											
Flush Toilets	Privy	Urinals			Lavatories or Washbasins		Showerheads				
Bathtubs	Movable bathtubs	Laundry machines			Fixed laundry tubs		Movable laundry tubs				
Cook Stoves	Refrigerators	Garbage Containers			First Aide Kits		Fire Extinguishers <i>(No. & type)</i>				
8. COMMENTS											
9. EMPLOYER CERTIFICATION: I CERTIFY THAT I have reviewed the housing regulations of the U.S. Department of Labor , <input type="checkbox"/> OSHA <input type="checkbox"/> ETA and that the housing described herein <input type="checkbox"/> meets <input type="checkbox"/> does not meet such standards. I hereby authorize representatives of the State Employment Service office and/or Employment and Training Administration regional office to inspect the above housing at any reasonable time.											
Employer's Signature					Typed Name and Title					Date	
10. HOUSING INSPECTED BY:											
Signature of Authorized Official					Typed Name and Title					Date	
11. APPROVAL: Housing approved for occupancy by workers recruited interstate.											
Signature of Authorized Official					Typed Name and Title					Date	

TITLE 20 – EMPLOYEE BENEFITS – PART 654 – HOUSING FOR AGRICULTURAL WORKERS

WORKSHEET

	<u>Yes</u>	<u>No</u>	
Camp Area	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.404)
Water Supply	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.405)
Excreta & liquid waste disposal	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.406)
Shelter	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.407)
Screening	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.408)
Heating	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.409)
Lighting	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.410)
Toilets	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.411)
Washrooms, bathrooms, and laundry tubs	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.412)
Cooking & eating Facilities	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.413)
Garbage & other refuse disposal	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.414)
Insect & rodent control	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.415)
Sleeping facilities	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.416)
Safety & fire prevention	<input type="checkbox"/>	<input type="checkbox"/>	(Sec. 654.417)

I hereby certify that all items on this form are are not in compliance with the regulations.

Signature Date
Career Center Representative

I certify that my housing will be in full compliance with the regulations at least 30 days before the _____ (give specific date) housing is to be occupied and that I will notify the Colorado Division of Employment and Training that said premises are ready for re-inspection.

Signature of Employer Date

COMMENTS:

Distribution: Original – Employer
Copy – Job Service Center
Copy – State Clearance Office

Worksheet completed by
(Signature)

Date Completed

Employer Signature Date

HOUSING TERMS AND CONDITIONS

Important Notice to Migrant Agricultural Worker: The Migrant and Seasonal Agricultural Worker Protection Act requires the furnishing of the following information.

1. This housing is provided by:

Name:
Address:

2. Individual(s) in charge:

Name:
Address:

3. Mailing address of housing facility

Address:
City & State/Zip Code
Phone:

4. Conditions of Occupancy
Who may live in housing facility

Charges made for housing (if none, so state)

Meals Provided (if none, so state)

Charges for utilities (if none, so state)

Other changes, if any

Other conditions of occupancy

Important Notice to Farm Labor Contractor, Agricultural Employer, or Agricultural Association:

This form may be used for the disclosure required by section 201© of the act. It must be posted in a conspicuous place or presented to each worker in English, Spanish or another language, as appropriate.

CONDICIONES DE OCUPACIÓN DE LA VIVIENDA

Aviso Importante para el Trabajador Migrante en la Agricultura: La Ley de protección de Trabajadores Migrantes Y Temporales en la Agricultura exige que Ud. Conozca los informes siguientes.

1. Dueño de la vivienda (casa, apartamento, etc.)

Nombre:
Dirección:

2. Persona encargada de la vivienda

Nombre:
Dirección:

3. Dirección de la vivienda

Dirección:
City & State/Zip Code
Telefono:

4. Condiciones de Ocupación
Personas que pueden ocupar la vivienda

Renta por semana \$ por mes \$ (Si no se cobra, escriba "Ningún costo al trabajador")

Comida (si no proporciona comida, escriba "Ningun comida")

Costo de la luz, el agua, el gas, etc. (si no hay costo, escriba "ningun costo al trabajador")

Cualquier otro costo

Otras condiciones de ocupación

Aviso Importante Para el Contratista de Mano de Obra Agrícola (el Troquero), el Patrón, o la Asociación Agrícola:

Puede utilizar esta forma para darles a los trabajadores migrantes los informes que exige la sección 201© de la ley. Tiene que exhibirlo en un lugar donde puedan verlo facilmente los trabajadores o presentarles una copia a cada trabajador, y tiene que presentarlo en Inglés, en Español, o en otra idioma que sea apropiado.



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Departamento de Trabajo de los EE. UU.
Administración de Normas de Empleo
Division de Salarios y Horas

HOUSING INSPECTION PROGRAM FIRST AID FACILITIES

First aid facilities are to be provided and readily accessible for use at all times. Such facilities must be equivalent to the 16-unit first aid kit recommended by the American Red Cross, and provided in a ratio of 1 per 50 persons.

- **FIRST AID KITS AND SUPPLIES**

- Unit Type Kits**

- Unit-type kits contain a complete assortment of first aid materials put up in standard packages of unit size or multiples of the unit size and arranged in cases containing 16, 24, or 32 units. Each unit package contains one or more individual dressings. Each dressing is complete in itself and is sealed in a sterile wrapper. It contains just enough material to treat a single injury, thus eliminating waste. All liquids are put up in individual, sealed ampules, and consequently cannot deteriorate.**

- Illustrations and instructions for use of the contents are on the front of each package. The desired unit package are easy to locate, because the contents are clearly indicated on the top side in bold type. The unit packages fit like blocks in the case; they cannot shift or become disarranged.**

- Standard refills are supplied by various manufactures and can be changed easily to meet the needs of the purchaser. Unit refills are easy to obtain. The original cost may be slightly higher, but materials are subject to much handling by many different persons, this type is generally cheaper and more satisfactory in the long run. There is no contamination or waste of unused materials. The kits can be obtained with contents selected to meet the particular needs of the purchaser.**

- **CONTENTS OF 16 UNIT-FIRST AID KIT**

- 2 Units – 1” adhesive compress**
 - 2 Units – 2” bandage compress**
 - 1 Unit -- 3” bandage compress**
 - 1 Unit -- 4” bandage compress**
 - 1 Unit -- 3” x 3” plain gauze pads**
 - 2 Units – plain absorbent gauze – ½ sq. yd.**
 - 2 Units – plain absorbent gauze – 24” x 72”**
 - 3 Units – triangular bandages – 40”**
 - 1 Unit – tourniquet, scissors, tweezers**

Complete unit-type kits and standard refills can be obtained at local medical supply houses/stores.

1928- SUBPARTS E-H [RESERVED]

SUB PART I – GENERAL ENVIRONMENTAL CONTROLS

1928.110 – FIELD SANITATION

- (a) Scope. This section shall apply to any agricultural establishment where eleven (11) or more employees are engaged on any given day in hand labor operations
- (b) Definitions. “Agricultural employer” means any person, corporation, association, or other legal entity that:
- (i) Owns or operates an agricultural establishment:
 - (ii) Contracts with the owner or operator of an agricultural establishment in advance of production of the purchase of a crop and exercises substantial control over production: or
 - (iii) Recruits and supervises employees or is responsible for the management and condition of an agricultural establishment.

“Agricultural establishment” is a business operation that uses paid employees in the production of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

“Hand labor operations” means agricultural activities or agricultural operations performed by hand or with hand tools. Except for purposes of paragraph (c)(2)(iii) of this section, “hand labor operations” also include other activities or operations performed in conjunction with hand labor in the field. Some examples of “hand labor operations” are the hand-cultivation, hand-weeding, hand-planting and hand-harvesting of vegetables, nuts, fruits, seedlings or other crops, including mushrooms, and the hand packing of produce into containers, whether done on the ground, on a moving machine or in a temporary packing shed located in the field. “Hand labor” does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).

“Hand washing facility” means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap and single use towels.

“Potable water” means water that meets the standards of drinking purposes of the state or local authority having jurisdiction or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency’s National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141.

“Toilet facility” means a fixed or portable facility designed for the purpose of adequate collection and containment of the products of both defecation and urination, which is supplied with toilet paper adequate to employee needs. Toilet facility includes biological, chemical, flush and combustion toilets and sanitary privies.

- (c) Requirements. Agricultural employers shall provide the following for employees engaged in hand labor operations in the field, without cost to the employee:

(1) Potable drinking water.

- (i) Potable water shall be provided and placed in locations readily accessible to all employees.
- (ii) The water shall be suitably cool and in sufficient amounts, taking into account the air temperature, humidity and the nature of the work performed, to meet the needs of all employees.
- (iii) The water shall be dispensed in single use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.

(2) Toilet and hand washing facilities.

1928.110 (c)(2)

- (i) One Toilet facility and one hand washing facility shall be provided for each twenty (20) employees or fraction thereof, except as stated in paragraph (c)(2)(v) of this section.
- (ii) Toilet facilities shall be adequately ventilated, appropriately screened, have self-closing doors that can be closed and latched from the inside and shall be constructed to insure privacy.
- (iii) Toilet and hand washing facilities shall be accessibly located and in close proximity to each other. The facilities shall be located within a one-quarter –mile walk of each hand laborer’s place of work in the field.
- (iv) Where due to terrain it is not feasible to locate facilities as required above, the facilities shall be located at the point of closest vehicular access.
- (v) Toilet and hand washing facilities are not required for employees who perform fieldwork for a period of three (3) hours or less (including transportation time to and from the field) during the day.

(3) Maintenance. Potable drinking water and toilet and hand washing facilities shall be maintained in accordance with appropriate public health sanitation practices, including the following:

- (i) Drinking water containers shall be constructed of materials that maintain water quality, shall be refilled daily or more often as necessary, shall be kept covered and shall be regularly cleaned.
- (ii) Toilet facilities shall be operational and maintained in clean and sanitary condition.
- (iii) Hand washing facilities shall be refilled with potable water as necessary to ensure an adequate supply and shall be maintained in a clean and sanitary condition: and
- (iv) Disposal of wastes from facilities shall not cause unsanitary conditions.

(4) Reasonable Use. The employer shall notify each employee of the location of the sanitation facilities and water and shall allow each employee reasonable opportunities during the workday to use them. The employer also shall inform each employee of the importance of each of the following good hygiene practices to minimize exposure to the hazards in the field of heat, communicable diseases, retention of urine and agrochemical residues.

- (i) Use the water and facilities provided for drinking, hand washing, and elimination;
 - (ii) Drink water frequently and especially on hot days;
 - (iii) Urinate as frequently as necessary;
 - (iv) Wash hands both before and after using the toilet; and
 - (v) Wash hands before eating and smoking.
- (d) Dates---

(1) Effective Date. This standard shall take effect on May 30, 1987

(2) Startup Dates. Employers must comply with the requirements of paragraphs:

- (1) Paragraph (c) (1), to provide potable drinking water, by May 30, 1987;
- (ii) Paragraph (c) (2), to provide hand washing and toilet facilities, by July 30, 1987;
- (iii) Paragraph (c) (3), to provide maintenance for toilet and hand washing facilities, by July 30, 1987; and
- (iv) Paragraph (c) (4), to assure reasonable use, by July 30, 1987

(52 F.R. 16095. May 1, 1987)



Program Highlights

Fact Sheet No. ESA/WH 97-1

Field Sanitation Standards

Code of Federal Regulations (29 CFR 1928. 110)

<p>Background</p> <p>The occupational Safety and Health Act of 1970 was enacted to assure safe and healthful working conditions for working men and women. In 1987, the Occupational Safety and Health Administration issued regulations establishing minimum standards for field sanitation in covered agricultural settings. By Secretary’s Order effective February 3, 1997, authority for enforcing these standards in most states (<u>see reverse</u>) was re-delegated to the Wage and Hour Division of the Employment Standards Administration.</p> <p>Summary</p> <p>The applicable standards require covered employers to provide: toilets, potable drinking water and hand-washing facilities to hand-laborers in the field; each employee reasonable use of the above, and to inform each employee of the importance of good hygiene practices. Covered employers who fail to comply with the statute or regulations may be subjected to a range of sanctions, including the administrative assessment of civil money penalties and civil or criminal legal action.</p> <p>Scope of coverage</p> <p>In general, the field sanitation standards apply to any agricultural establishment employing 11 or more workers on any one day during the previous 12 months; perform “hand labor” fieldwork.</p>	<p>“Hand labor” includes hand-cultivation, hand weeding, hand planting, and hand harvesting of vegetables, nuts, fruits, seedlings, or other crops, including mushrooms, and the hand-packing of produce in the field into containers, whether performed on the ground, on moving machinery, or in a shed. “Hand labor” does not include the care and feeding of livestock, or hand labor operations in permanent structures (e.g. canning facilities or packing houses.) Except for hand labor reforestation work, the term “hand labor” also does not include forestry operations, such as logging.</p> <p>Key Requirements</p> <p>Employers must provide:</p> <ul style="list-style-type: none"> • Potable drinking water, suitably cool and in sufficient amounts, dispensed in single-use cups or by fountains, located so as to be readily accessible to employees. • One toilet and hand washing facility for each 20 employees, located within a quarter-mile walk, or if not feasible, at the closest point of vehicular access. Premoistened towelettes, once allowed by some state regulators, cannot be substituted for hand washing facilities. Such facilities are not required for employees who do field work for three hours or less each day, including travel to and from work. This exception does not apply to the drinking-water provision. <p>-Over-</p>
---	--

- Facilities maintained in accordance with public health sanitation practices including upkeep of water quality through daily change or more often if necessary; toilets kept sanitary and operational; hand washing facilities refilled with potable water as necessary and kept sanitary, and safe, proper disposal of wastes.
- Notification to each employee of the location of the water and sanitation facilities and allowances of reasonable opportunities during the workday to use the. The employer also must inform the employee of the relevant health hazards in the field and the practices necessary to minimize them.

Employees cannot be made to bear the costs incurred by the employer for providing required facilities.

On February 3, 1997 the Wage and Hour Division assumed authority to enforce these field sanitation standards nationwide, except for Puerto Rico and the following states:

Northeast Region
Maryland, Virginia, Vermont.
Southeast Region
North Carolina, Tennessee
Central Region
Michigan
Southwest Region
New Mexico
Western Region
Arizona, California, Hawaii, Nevada, Oregon,
Washington.

For more information on standards in any of these states (or Puerto Rico), contact the state labor department or the nearest office of the Occupational Safety and Health Administration. For more information on the federal field sanitation standards for a state not listed, contact the nearest office of the Wage and Hour Division.

Note: Certain states have adopted standards more stringent than the federal requirements. Contact the state labor agency or department of health to find out whether your state has such requirements.

Where both federal and state requirements apply to an agricultural establishment, the employer is obligated to comply with the stricter requirement.

**U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division**

**Migrant and Seasonal Agricultural
Worker Protection Act**

WORKER INFORMATION

1. Place of employment

2. Period of employment

From _____ To _____

3. Wage rates to be paid

Hourly \$ _____

Piece rate \$ _____

4. Crops and kinds of activities

5. Transportation and other benefits, if any

Transportation _____ Charges _____

Unemployment compensation insurance provided Yes No

Worker's compensation insurance provided Yes No

Other benefits _____ Charges _____

6. For migrant workers who will be housed, the kind of housing available and cost, if any

_____ Charges _____

7. List any strikes, work stoppage, slowdown, or interruption of operation by employees at the place where the workers will be employed (If there are no strikes, etc., enter "None")

8. List any arrangements which have been made with establishment owners or agents for the payment of commission or other benefits for sales made to the workers (If there are no such arrangements, enter "None")

Name of person providing this information

The Migrant and Seasonal Agricultural Worker Protection Act requires the disclosure in writing of the foregoing information to migrant and day-haul workers upon recruitment, and to seasonal workers other than day-haul workers upon request when an offer of employment is made. This optional form may be used to provide the required information.

Thereafter, any migrant or seasonal worker has the right to have, upon request, a written statement provided to him by his employer of the information described above. The optional form may also be used for this second requirement.

**Departamento de trabajo de los EE. UU.
Administración de Normas de Empleo
División de Salarios y Horas**

**La Ley De Protección De
Trabajadores Migrantes Y Temporales
En La Agricultura**

INFORMACION PARA LOS TRABAJADORES

1. Lugar de empleo

2. Periodo de empleo

Desde el _____ Hasta el _____

3. Base de pago

Por Hora \$ _____

Por Contrato \$ _____ Por _____

4. Clases de cultivos y de trabajo

5. Transportación y cualquier beneficio adicional que sea proporcionado

Transportación _____

Costo al trabajador _____

Beneficios adicionales _____

Costo al trabajador _____

Se provee seguro de trabajo bajo la ley de impuestos de desempleo.

Si No

Se provee seguro de compensación de trabajo. Si No

6. Para los trabajadores a quienes se les proporcionen viviendas, la clase de viviendas y cualquier costo

_____ Costo al _____

_____ Trabajador _____

7. Indique si hay una huelga, un para de trabajo, una huelga intermitente, o una interrupción de trabajo efectuada por trabajadores en el lugar donde van a trabajar (si no hay huelgas, etc., escriba "Ninguna")

8. Indique si el patrón tiene acuerdos con comerciantes o agentes de los cuales recibe una comisión u otro beneficio por las compras que los trabajadores hagan (si no existe tal acuerdo, escriba "Ninguno")

Nombre de la persona que proporciona esta información

La Ley Protección de Trabajadores Migrantes y Temporales en la Agricultura exige que reciban estos datos por escrito al ser reclutados los trabajadores migrantes y los que se reúnen diariamente en algún lugar para ser reclutados, ocupados, y transportados el lugar de empleo. La ley también les concede al los trabajadores temporales el derecho de pedir esta información cuando se les haga una oferta de trabajo. El patrón puede utilizar esta forma para proporcionar los informes necesarios.

De ahí en adelante los trabajadores migrantes y temporales tienen derecho de pedirle a su patrón que les de una declaración escrita presentando todos los datos a los cuales se refiere mas arriba. El patrón puede utilizar esta forma también para este segundo propósito.

Special Procedures Under the H2A Program

ETA and OSHA Housing Regulations are also followed for all H2A housing inspections, the regulations stay the same with the minor differences listed below.

- Special Procedures for Sheep Herders and Goat Herders
 - Housing Variances may apply (see Special Procedures in following pages)
 - Variances **only** apply when housing is out on the range
- Housing must be provided free of charge
- Equipped cooking facility must be provided if meals are not included
 - To include pots, pans, plates, cups, utensils etc.
- Bedding is to be provided

REQUEST FOR VARIANCE OF HOUSING REGULATIONS

Attachment HIP # _ to Form ETA 338

Employer

In accordance with Part 654 of Federal Register, Volume 45, Number 44, issued March 4, 1980, regarding variations on Housing for agricultural workers, it is requested that a variance be issued because: (1) such variation is necessary to obtain a beneficial use of an existing facility, (2) the variation is necessary to prevent a practical difficulty or necessary hardship, and (3) alternative measures have been taken to protect the health and safety of the employee and assure that the purpose of the provisions from which variation is sought will be observed.

A. Variance is requested on the following:

1. 654.405 - Water Supply

654.405 (b) -- Water supply is brought to the camp in containers for each living unit by the employer, and no cold water tap is available to sheep wagons. Sheep wagons are in remote areas:

2. 654.407 - Housing

a. 654.407 (c) (3) -- The combined cooking, heating, and sleeping purposes in most units have less than 60 sq. ft. of floor space per occupant.

b. 654.407 (g) -- The ceiling height of most sheep wagons is between 6 and 7 feet.

c. 654.407 (h) -- The total window area does not equal 10% of the usable floor area.

3. 654.410 - Electricity and Lighting

a. 654.410 (a) -- No sites are equipped with electrical service as sheep camp wagons are usually located in remote areas.

b. 654.410 (b) -- No rooms are equipped with electrical service or electrical outlets. Lighting is provided by Coleman lanterns.

c. 654.410 (c) -- No lighting is provided for the yard areas and pathways.

d. 654.410 (d) -- No electricity is provided for sheep wagons.

4. 654.411 - Toilets

- a. 654.411 -- a, b, c, d, e, f, g, h, & i -- Sheep wagons are not equipped with any toilet facilities. Some sites may be equipped with privies when in less remote areas.

We request a waiver from all of these items.

5. 654.412 - Bathing, Laundry and Hand Washing

- a. 654.412 a, b, c, d, -- Water is not supplied under pressure to sheep wagons. Hand washing and bathing facilities are done in basin and bathtub. Laundry is also done in portable wash basins. Shepherders, from time to time, are taken to town to take baths and do their laundry.

This entire section must be waived or is not applicable.

6. 654.413 - Cooking and Eating Facilities

- a. 654.413 (a) -- No mechanical refrigeration is available to sheep wagons.
- b. 654.413 (b) -- Sheep wagons have only one room and, therefore, do not have a separate kitchen. Sinks are not provided with hot and cold water under pressure.

7. 654.414 - Garbage and Other Refuse

- a. 654.414 (b) -- Collection of refuse is not made twice a week. Most garbage is buried on the site as needed to prevent insects and rodents.

Employer Signature: _____

JSM/rjb/rfvohs.p

SPECIAL PROCEDURES

LABOR CERTIFICATION PROCESS FOR

SHEEPHERDERS AND GOATHERDERS

UNDER

THE H-2A PROGRAM

Part I: Procedures Applicable to All Shepherd and Goatherder Applications

Except as otherwise provided for in these special procedures, the basic H-2A regulations at 20 C.F.R. Part 655, Subpart B, and the H-2A operating guidelines in ETA Handbook No. 398 apply to shepherd applications. These procedures apply as well to goatherders attending goats as well. They do not apply to sheep and goat ranch hands who would be classified as "Farmworkers, Livestock," 410.644-010 (DOT)

A. Filing of Applications

The filing procedures in 20 C.F.R. § 655.101 apply to an application which is being submitted for the purpose of certifying a job opportunity which is vacant, (an "initial" certification), and to an application being submitted for the purpose of "renewing" a certification for a position which is encumbered by a nonimmigrant foreign worker completing the first or second year of a planned 3-year work period with an employer (a "renewal" certification).

Exception: The filing procedure for the Western Range Association is an exception to this process in that the "master" application and job orders are used. See Part II, Section C.

B. Contents of Job Offer to U.S. and Foreign Workers

1. Job Specifications

As a general rule, the job specifications in Item No. 13 on the ETA 750 and Item No. 11 on the Form ETA-790 should be based on the description in the Dictionary of Occupational Titles (D.O.T.) for "shepherd (agric.)," 410.687-022 and "goatherder (agric.)," 410.687-014. Based on current practices in the industry, the following would be the standard job description:

Attends sheep and/or goat flock grazing on range or pasture: Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. May examine animals for signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking and shearing. May feed animals supplementary feed. May perform other farm or ranch chores related to the production and husbandry of sheep and/or goats on an incidental basis.

Employers who wish to supplement this description with additional duties which are required due to business necessity may do so on a case-by-case basis, with the review and approval of the Regional Office. In addition, Regional Offices may amplify the job description if it is believed additional information, such as size of flock (open range bands of sheep are often 1,000 head and up), necessity to use pack and saddle horses to reach range, and climatic conditions, is needed to provide a more comprehensive picture for recruitment purposes.

2. Hours

The description of anticipated hours of work in Item No.9 on ETA-790 must show “on call for up to 24 hours per day, 7 days per week.” This will exempt employers from those requirements in 20 C.F.R. §655.102(b) (7) and (8) which require the recording and reporting of hours offered and worked.

3. Experience

The job offer may specify that applicants possess at least 1-3 months experience as shepherders or in similar occupation involving the range tending and production of livestock. This is consistent with “Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles,” Part A. It is acceptable for job offers to state that one month summer herding and one month winter herding experience is desirable, but his cannot be required.

4. References

An H-2A employer may require an applicant to provide the name, address, and telephone number of a previous employer or other qualified individual who can serve as a reference about an applicant’s experience in attending sheep or goats. However, a requesting employer’s difficulty or delays in contacting a previous employer or other reference will not be considered a legitimate reason for deferring a decision on hiring or refusing to hire an applicant who is otherwise considered qualified and available, unless the applicant provided an inaccurate or falsified name, address or telephone number of a previous reference. Applicants who provide satisfactory reference information number of a previous reference. Applicants who provide satisfactory reference information will be considered available for purposes of making a labor certification determination.

5. Period of Employment and Worker Contract

The total period of employment (Item No.5 on Form ETA-790) must be for less than 1 year. The Regional Office cannot grant an H-2A labor certification for a period of time longer than 1 year minus 1 day.

Each Shepherder (goatherder) employer must offer all domestic hired shepherders (goatherders) a contract which has a duration of employment period identical to the one on the employer’s job order which the Regional Office used for labor certification purposes, unless the employer chooses to utilize the job order itself for this purpose, as the regulations permit. Employers may, however, negotiate a longer-term contract with U.S. workers after the U.S. workers arrive at the job site, provided that all the other terms and conditions in the job order are not changed without prior approval from the Regional Office.

When a longer term contract is negotiated with a U.S. worker, the employer is not relieved of the responsibility for reimbursement to the worker for travel and subsistence expenses incurred in getting to the job site which were advanced by the employer and subsequently withheld from the worker's pay until 50% of the original contract period elapsed. These payments must be made to the U.S. worker at the 50% completion point of the original period of employment (about 6 months). The employer also is responsible for "return" transportation and subsistence expenses if the U.S. worker successfully fulfills his/her obligations under the original terms of employment for less than 1 year. However, such payment does not actually have to be made to the U.S. worker until the worker and the employer sever their employer/employee relationship, which will occur at a point in time subsequent to the end of the original period of employment when a longer term contract is negotiated. Successful completion of the "original" contract or job order entitles the worker to return transportation and subsistence regardless of performance under a "renewal" or extended contract.

Employers may negotiate longer term contracts (up to 3 years) with foreign workers provided that any contracts of a year or longer are expressly conditioned upon renewal of certification by DOL. In the event certification renewal is not obtained, the contract will be construed as being effective for the period of the initial certification, and the employer is liable for return transportation and subsistence after the worker completes employment for the initial certification period. The $\frac{3}{4}$ guarantee for individual employers is based on the 1 year contract, as is the requirement for transportation reimbursement at 50% of the contract period.

Shepherd (goatherder) employers (except for WRA members) must be able to make available a copy of each worker/employer contract or the job order itself, for inspection by Employment Standards Administration, Wage and Hour compliance officers responsible for enforcing contractual obligations aspects of the H-2A program.

6. Wages

Employers requesting H-2A certification for shepherders and goatherders must offer U.S. and foreign workers, as a minimum the highest of the following: the prevailing wage rate for the occupation in the State as determined by the SESA prevailing wage survey and verified by the National Office, or a special monthly Adverse Effect Wage Rate (AEWR) established by the National Office, or the legal federal or state minimum wage rate. Workers must be paid twice monthly in accordance with the frequency of pay requirement at 20 C.F.R. § 655.102(b) (10), unless the employer/employee mutually agree to a monthly payment arrangement, and this is reflected in the contract. Employers may offer and pay wages higher than the established minimum depending upon experience and longevity as long as the same wage levels are offered to both foreign and U.S. workers.

Procedures for Setting Wages

SESAs should conduct prevailing wage surveys and submit them to the National Office by May 15th each year. The National Office will review and verify the findings, and communicate them to the Regional Offices by June 1st. The Regional Offices will publicize the new rates and send copies to the Western Range Association, Mountain Plains Association, and independent ranchers who participate in the H-2A program immediately upon receipt. The rates will become effective July 1st.

Prevailing wage surveys conducted by SESAs should be performed in accordance with the procedures set forth in the Forms Preparation Handbook, ETA Handbook No. 385. Pages 1-111 through 1-143, except that the SESA should not devote time distinguishing between In-State and Inter-State workers. Since the shepherd occupation is a year round job, all herders can legitimately be considered In-State after 6 months on the job and attempts to distinguish between In-State and Inter-State are largely artificial. If the SESA gets specific information that appropriately characterizes a herder as Inter-State, such herder should be listed in Column IV of the ETA 232. Otherwise, all herders should be listed in Column III.

SESAs should prepare the ETA-232 Report (wage surveys) on all domestic workers included in the survey according to ETA handbook No. 385 instructions. A summary data sheet should be attached to the ETA-232 Report showing the number of domestic workers listed in section 4, Columns II, II and IV on the ETA-232 form who have been reported by survey respondents or otherwise determined by the SESA to have received specific benefits, free housing and/or free board. This will be used by the National Office in connection with the establishment of prevailing, common and normal practices which apply both to H-2A and non-criteria Intra- and Inter-State Orders.

For example, a completed ETA-232 form might show the following array:

RATE

NO. OF U.S. WORKERS

	TOTAL	INSTATE	INTERSTATE
I	II	III	IV
TOTAL	26	23	3
\$1,000 Month	1	0	1
950 Month	1	0	1
800 Month	2	1	1
750 Month	9	9	0
725 Month	3	3	0
700 Month	1	1	0
675 Month	2	2	0
650 Month	7	7	0

In the proceeding example, an acceptable summary attachment might show the following:

BENEFITS PROVIDED TO WORKERS

SUMMARY	TOTAL WORKERS	NO-COST HOUSING	FREE BOARD	OTHER BENEFITS
Wage Rate	26	23	22	
\$1,000 Month	1	0	0	
950 Month	1	0	0	
800 Month	2	1	1	
750 Month	9	9	9	
725 Month	3	3	3	
700 Month	1	1	1	
675 Month	2	2	1	
650 Month	7	7	7	

In the above example, the correct wage determination would be \$750 a month in accordance with the 51 percent rule as outlined in the ETA Handbook 385, page 1-117.

In most instances, the results of the state prevailing wage survey will be used to establish the State prevailing wage. The only exception to this rule will be cases where modification to ETA Handbook No. 385 procedures are necessary to compensate for inadequate sample sizes. In the event of inadequate sample size, as determined by the National and Regional Offices, every attempt will be made to establish a prevailing wage by using the other comparable information, e.g., utilizing data from adjoining areas or States, merging sheepherder (goatherder) data from several States or using past survey data for sheepherders (goatherder) in the State. If inadequate sample sizes cannot be compensated through such practice (no relevant) data in an adjoining wage reporting area or no relevant data in the previous year), then consideration should be given to merging sheepherder (goatherder) data across States to create regional prevailing wages or to surveys of comparable occupations in the same State. When regional prevailing wages are contemplated, consideration may be given to the regional groupings of States used by the U.S. Department of Agriculture when it conducts its quarterly farm wage surveys.

The determination of legal status may be affected by advising the survey respondent providing data to distinguish between those workers for whom the Form I-9 indicates they are U.S. citizens, permanent legal residents, or the recipient of temporary legal work authorization (other than an H-2A visa). (Note: It is not necessary for the survey interviewer to actually inspect the Form I-9.) If a mailed questionnaire is used to collect data, it must contain such instructions regarding the worker's legal status. Any worker personally interviewed to obtain data must similarly fall within the covered categories. However, in no event should survey respondents or workers be asked by SESA staff to present any documentation to support a claim of legal work status.

7. Board

All H-2A sheepherder (goatherder) employers must offer their U.S. and foreign workers free food. Board arrangements may involve the provision of three prepared meals a day when workers are in camp or free and convenient cooking facilities and provision of food for the workers to prepare themselves while in camp or on the range.

8. Positive Recruitment Plan

All sheepherder (goatherder) employers are exempt from the requirement to submit a positive recruitment plan at 20 C.F.R. § 655.102(d). however, the Regional Office, with the National Office concurrence, may require special positive recruitment efforts in accordance with 20 C.F.R. § 655.105(a) if it is determined that there are a significant number of able and qualified U.S. workers, who, if recruited, would likely be willing to make themselves available for work at the time and place needed.

9. Advance Transportation and Subsistence Costs

All sheepherder (goatherder) employers must offer to provide advance transportation and subsistence costs to workers being recruited. Determination on advance transportation and subsistence matters shall be made in accordance with 20 C.F.R. § 655.102(b) (5).

10. Housing

All sheepherder (goatherder) housing is governed by the procedures presented in Part III.

11. H-2A Requirements for All Employers

All Sheepherder (goatherder) employers must comply with the H-2A regulations provisions regarding the payment of a fee for granted certifications (20 C.F.R. § 655.103(h)) and proof of workers compensation or comparable insurance (20 C.F.R § 102(b) (2)). The fee payment requirement applies to “renewal” as well as initial applications.

C. Regional Office Certification Determinations

The Regional Office may render a certification determination on sheepherder (goatherder) applications earlier than the normal **30** days before date of need deadline for such determinations as prescribed in the H-2A regulations. In exercising this discretion, the Regional Office will take into consideration past and continuing recruitment efforts and SESA-provided information (general or specific) on U.S. worker availability.

Part II: Procedures Applicable Only to Western Range Association (WRA) Applications

A. WRA Status

The WRA is an association of sheep ranchers which acts as a joint employer for H-2A program purposes with its rancher members. It represents the majority of employers of shepherders who participate in the H-2A program. The WRA has provided appropriate Regional Offices with a statement setting forth details of its joint employer association relationship with its members, including the specific tasks and responsibilities it performs and assumes on behalf of the individual rancher members. The WRA operates as a joint employer solely for H-2A program purposes.

Regional Offices which have need for clarification of the role of the WRA should contact the WRA directly by letter or telephone. The address and telephone number is:

Western Range Association
6060 Sunrise Vista Drive, Suite 2400
Citrus Heights, California 95610-7057
(916) 962-1500

B. Advertising

The WRA will satisfy the advertising requirements of 20 C.F.R § 655.103(d) (2) by placing advertisements once each quarter of the calendar year in newspapers of general circulation or trade journals in areas that the Regional Office determines to be potential sources of individuals interested in shepherd jobs. The WRA may also conduct radio advertising in areas determined by the Regional Office.

At least once a year, in accordance with a schedule to be established, the WRA will submit a plan that sets forth the advertising agenda for the next year. This plan will be reviewed for sufficiency by the Regional Office. The Regional Office has the discretion to request additional or other methods of advertising if the Certifying Officer determines, based on his/her knowledge of the labor market, that U.S. workers are available. The Regional Office, upon receipt of the initial application, will assess the advertising plan to ascertain if the advertising agenda has been followed.

In the event the Regional Office and the WRA are not able to agree on the adequacy of the advertising plan, the WRA may request the National Office to intervene and resolve any disputes. Such requests must be in writing and be addressed to the Administrator, U.S. Department of Labor, Office of Workforce Security. The decision of the Administrator in such matters will be binding on the parties.

Advertisements shall generally conform to the language in the following format:

Range Shepherders (some experience needed). Immediate Openings Available. Attends sheep grazing on range or pasture. Herds sheep using trained dogs. Guards flock from predators and from eating poisonous plants. May examine animals for signs of illness and administer vaccines, medications and insecticides. May assist in lambing, docking and shearing. May perform other ranch duties incidental to goat/sheep production. Large flocks with single/pair herder. Free food, housing, tools, supplies and equipment provided. May be on call 24 hours per day, 7-days per week. Minimum 11-month employment. Employment for ¾ of workdays guaranteed. Workers compensation provided. Transportation to job and subsistence provided; deducted from wages until 50% of employment contract completed, then paid to worker. Return transportation provided at end of employment contract. A reference is required. Employment available in several Western States including _____ (States) _____. Minimum salary varies according to State, from _____ to _____ per month. Contact (Local Office), (Phone No.) _____ or your nearest local office of the _____ (SESA) _____.

C. Year Round, Open Job Orders

Because of the historic shortage of domestic shepherders, the WRA has agreed to place with its rancher members any qualified U.S. worker who applies for a WRA job opening at any time of the year that such a qualified worker

The WRA will prepare and submit a “master” job order (Form ETA-790) to appropriate Regional Offices and the appropriate centralized H-2A processing location within the state of intended employment once each calendar year in accordance with a schedule to be established. This “master” job order will comply with all the requirements of 20 C.F.R. Part 653, subpart F, and 20 C.F.R. Part 655, Subpart B (unless otherwise provided for in this document). “Master” orders should also conform to the guidelines in the H-2A Program Handbook, ETA No. 398, P. 1-9, and have as attachments names, addresses and phone numbers of all individual rancher members of the WRA and rancher-specific job information, e.g., number of openings; directions to ranch headquarters location; and estimated dates of need.

After these “master” orders are approved by the Regional Office, they will be distributed to all appropriate SESA local offices determined jointly by the Regional Office and the SESAs to be potential applicant holding offices. A copy of the approved “master” order will be returned to the WRA by the Regional Office. This procedure will be considered to comply with agricultural clearance order requirements at 20 C.F.R., Part 653, Subpart F, for WRA shepherd jobs only. If an interested applicant requests referral to a shepherding job from a local office where he/she is registered, and the WRA “master” order and attachments are not available at that office, that local office should contact the State office to secure a copy of the order before a referral is made.

The WRA must submit an ETA 750 form simultaneously to the RA and the centralized H-2A processing location within the state of intended employment no later than **45** days before each rancher's date of need setting forth the fact that a certification determination is requested no later than **30** days before the date of need for the specific rancher. This will generate Regional Office certification determination activity which may include, at the discretion of the Regional Offices, securing reports from the WRA and SESAs on U.S. worker referrals.

The WRA may amend the "master" application on behalf of "new" employers or to show other changes in employer-specific needs at any time, subject to Regional Office approval.

D. Referral Procedures

A local office which locates and has for referral an available and qualified applicant should place a collect telephone call to the WRA central office at (916) 962-1500. This office will normally be open on weekdays from 8:00 a.m. to 4:30 p.m. Pacific time. The applicant interested in a shepherd job should be physically present in the local office for interviewing by telephone when such calls to the WRA are made. In the event it is not possible to arrange for a direct conversation between the applicant and the WRA on the initial contact, the local office should schedule a subsequent telephone interview at a time convenient for both parties.

The WRA will conduct a telephone interview with the applicant while the applicant is in the SESA office to verify that the applicant is qualified, willing and available, and to determine if there is a job opening in the geographic area of the applicant's choice. The WRA will have current information on job openings with its specific employer members, and will attempt to the maximum extent possible to place an applicant with a rancher member in the geographic area of his/her choice within 3 working days of the telephone interview.

If the applicant is determined to be qualified and the geographic assignment choice can be accommodated, the WRA, after verbal authorization from the specific employer, will make a hiring commitment for the rancher member who has the job opening in which the applicant will be placed, subject to confirmation of past employment history with an applicant's reference. Failure to verify and applicant's reference is not justifiable cause for refusing to hire a SESA-referral telephone interview after SESA screening will satisfy the applicant's interviewing responsibility.

The WRA also may have available information on job openings with non-WRA member sheep ranchers. This information will be made available to the applicant and the SESA in the event the WRA is not able to readily accommodate the geographic assignment choice of the applicant. However, this will not preclude the applicant from choosing a different geographic area for WRA-member placement purposes or from deferring a job choice decision until an opening in the geographic area of choice becomes available with a WRA-member.

After the matters of geographic location/assignment and reference checks are resolved, the applicant-holding local office will confirm with the WRA that the applicant has been hired and will facilitate the arrangements necessary to ensure that transportation and subsistence were provided in advance to the worker by the WRA. For reporting purposes, the local office confirming the placement will serve as both applicant-holding and order-holding office.

The WRA will provide documentation related to U.S. worker referrals and interviews and the result of such actions to the Regional Office. Information regarding reasons for refusing to hire referred U.S. workers will be provided to the Regional Office as required by the Regional Office Certifying Officer.

As its discretion, the Regional Office may secure U.S. worker referral information for individual rancher certification determination purposes from SESAs. At least once each calendar year, the Regional Office will conduct analyses of SESA referral activity against WRA job openings and compare the information with WRA-supplied information in order to ensure continued program integrity.

When certifications are granted, the Regional Office will issue the certification jointly to both the WRA and the individual rancher member(s).

E. Transfer of Workers

1. Notifying Local Office

The WRA may transfer a domestic or foreign shepherd from one rancher-member to another rancher-member, but not to employers who do not belong to the WRA. Such transfers may be made at the WRA's discretion. When a worker objects to a transfer, the WRA will consider the worker's concerns and preferences. However, ultimate refusal on the part of a worker to a transfer may subject the worker to dismissal for a lawful, job-related reason, as provided for in DOL regulations.

In order to ensure that the employer to whom a worker is being transferred has suitable housing to accommodate the worker, the WRA shall notify the local office serving the area of the employer receiving the transferred worker of the planned transfer no less than 7 working days prior to the transfer. This will permit the local office to ascertain the availability and suitability of housing. If suitable housing is not available, the local office shall inform the WRA and the planned transfer shall be put in abeyance until: (1) the housing is determined by the local office to be acceptable; or (2) the WRA effects a transfer to another employer who has suitable housing.

2. Contractual Obligations

The "new" employer assumes the existing obligations of the work contract entered into with the previous employer including a multi-year contract negotiated with the worker, and an amendment to the existing contract will be made which reflects the new employer/employee

relationship and will be on file in WRA's Office. WRA will maintain and make available for inspection a copy of the worker/employer contracts, and individual WRA members are relieved of this responsibility. If the worker is moved to another State with a different wage rate, the established wage rate for the "new" State applies. The WRA will amend the appropriate attachments to the "master" job order in order to reflect any changes in the employer's situation.

Part III: Mobile Housing for Range Shepherders

A. Procedures

In accordance with regulations at 20 C.F.R. § 65.102(b)(1)(ii), standards in this section must be used in determining the adequacy of mobile housing for use on the range. Housing used exclusively at the ranch site is subject to the same standards as those for other agricultural workers at 20 C.F.R §§ 654.400-654.417, see also 29 C.F.R. § 1910.142.

Both range and ranch site housing may be self-certified by an employer. Individual employers must submit a signed statement with the application for labor certification assuring that the housing is available, is sufficient to accommodate the number of workers being requested, and meets DOL standards.

SESAs must inspect at least one-third of such self-certified housing once a year, and develop a schedule of inspections which ensures that each employer's housing is inspected at least once every 3 years. These inspections may be performed either before or after a request is submitted for foreign shepherders. Before referring a worker who is entitled to such housing, the local office must ensure that the housing is available and has been inspected in accordance with the 3-year schedule. If a SESA determines that an employer's housing does not meet DOL standards, the Certifying Officer may require additional inspections as needed.

B. Mobile Housing Standards

1. Housing Site

Housing sites shall be well drained and free from depressions in which water may stagnate.

2. Water Supply

a. An adequate and convenient supply of water that meets standards of the State health authority shall be provided. The amount of water provided must be enough for normal drinking, cooking, and bathing needs of each worker.

b. Individual drinking cups shall be provided.

C. Excreta and Liquid Waste Disposal

1. Facilities shall be provided and maintained for effective disposal of excreta and liquid waste according to requirements of State health authority or involved Federal agency.

2. If pits are used for the disposal by burying of excreta and liquid waste, they shall be kept fly-tight when not filled in completely after each use.

D. Housing Structure

1. Housing shall be structurally sound, in good repair, in sanitary condition and shall provide protection to occupants against the elements.
2. Housing other than tents, shall have flooring constructed of rigid materials easy to clean and so located as to prevent ground and surface water from entering.
3. Each housing unit shall have at least one window which can be opened or skylight opening directly to the outdoors.
4. Tents may be used where terrain and/or land regulations do not permit use of other more substantial mobile housing which provides facilities and protection closer in conformance with the Department's intent.

E. Heating

1. Where the climate in which the housing will be used is such that the safety and health of a shepherd requires heated living quarters, all such quarters shall have properly installed, operable heating equipment which supplies adequate heat. In considering whether the heating equipment is acceptable, the RA shall first determine if the housing will be located in a National Forest Wilderness as specified in the Wilderness Act (16 U.S.C §§ 1131-1136). Such a location has a bearing on the type of equipment practicable, or whether any heavy equipment is practicable. For example, Section 4 (c) of the Act (16 U.S.C. § 1133(c)) restricts certain motorized or mechanical transport and certain roads in wilderness areas. The U.S. Forest Service has regulations for this at 36 C.F.R. Part 293.

Aside from the above, other factors to consider in evaluating heating equipment are how severe the weather will be and the kinds of protective clothing and bedding made available to the herder. If the climate in which the housing will be used is mild and not reasonably expected to drop below 50 degrees Fahrenheit continuously for 24-hours, no separate heating equipment is required if proper protective clothing and bedding are available.

2. Any stoves or other sources of heat using combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. Portable electrical heaters may be used, and if approved by Underwriters' Laboratory, kerosene heaters may be used according to manufacturer's instructions.

If solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.

3. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or stove pipe shall be of fireproof material. A vented metal collar shall be installed around a stovepipe or vent passing through a wall, ceiling, floor or roof.

4. When a heating system has automatic controls, the controls shall be of the type which cuts off the fuel supply when the flame fails or is interrupted or whenever a predetermined safe temperature or pressure is exceeded.

F. Lighting

1. In areas where it is not feasible to provide electrical service to mobile sheepherder housing, including tents, lanterns shall be provided (Kerosene wick lights meet the definition of lantern).

2. Lanterns, where used, shall be provided in a minimum ratio of one per occupant of each unit, including tents.

G. Bathing, Laundry and Hand washing. Movable bathing, laundry and hand washing facilities shall be provided when it is not feasible to provide hot and cold water under pressure.

H. Food Storage. When mechanical refrigeration of food is not feasible, the worker must be provided with another means of keeping food fresh and preventing spoilage, such as a butane or propane gas refrigerator. Other proven methods of safeguarding fresh foods, such as salting, are acceptable.

I. Cooking and Eating Facilities

1. When workers or their families are permitted or required to cook in their individual unit, a space shall be provided with adequate lighting and ventilation.

2. Wall surfaces next to all food preparation and cooking areas shall be of nonabsorbent, easy to clean material. Wall surfaces next to cooking areas shall be of fire-resistant materials.

J. Garbage and Other Refuse

1. Durable, fly-tight, clean containers shall be provided to each housing unit, including tents, for storing garbage and other refuse.

2. Provision shall be made for collecting or burying refuse, which includes garbage, at least twice a week or more often if necessary. Refuse disposal shall conform to Federal State and local law, whichever applies.

K. Insect and Rodent Control. Appropriate materials, including sprays, must be provided to aid housing occupant in combating insects, rodents and other vermin.

L. Sleeping Facilities. Separate sleeping unit shall be provided for each person, except in a family arrangement. Such a unit shall include a comfortable bed, cot or bunk with a clean mattress. When filing an application for certification, the employer may request a variance from the separate sleeping units requirement to allow for a second herder to temporarily join the herding operation. The employer must explain why it is impractical to set up a second unit. The second herder must provide his/her individual sleeping bag or bed roll. If this is impractical, the employer must supply a sleeping bag or roll.

M. Fire, Safety and First Aid

1. All units in which people sleep or eat shall be constructed and maintained according to applicable State or local fire and safety law.
2. No flammable or volatile liquid or materials shall be stored in or next to room used for living purposes, except for those needed for current household use.
3. Mobile housing units for range use must have a second means of escape. The second egress must be a window which can be easily opened, a hatch or other provision. It must be demonstrated that the herder would be able to crawl through the second egress without difficulty.
4. Tents are not required to have a second means of escape, except when large tents with walls of rigid materials are used. A heater may be used in a tent if the heater is approved by a testing service, such as Underwriters' Laboratory, and if the tent is fireproofed.
5. Adequate fire extinguishers in good working condition and first aid kits shall be provided in the mobile housing.