

MIGRANT, SEASONAL AND H-2A
FARMWORKER HOUSING
RESOURCE GUIDE



Montana Department of
LABOR & INDUSTRY

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This Resource Guide is presented by the Montana Department of Labor and Industry to assist Montana agricultural employers in complying with federal laws and regulations related to the use of migrant and seasonal agricultural workers, and in identifying certain “best practices” for employers. This Resource Guide contains information about various legal requirements for migrant and seasonal worker housing and employment, but it does not constitute legal advice as to how a person should apply that information to the person’s particular situation. While every effort has been made to provide up-to-date and accurate information in this Resource Guide, various policies, practices, and requirements of the United States Department of Labor may change from time to time. Only the U.S. Dept. of Labor can provide official interpretations of the legal requirements of the federal laws and regulations discussed in this Resource Guide.

REGULATIONS & THE REGULATORY PROCESS

LAWS, EXEMPTIONS AND STANDARDS

THE WAGE AND HOUR DIVISION OF THE UNITED STATES DEPARTMENT OF LABOR is responsible for inspecting housing under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA)¹. Regulations are enforced by the Employment and Training Administration (ETA) or Occupational Safety and Health Administration (OSHA). ETA regulations apply to housing built or under construction prior to April 3, 1980 (or was under a signed contract for construction prior to March 4, 1980). Housing built after April 3, 1980 shall comply with both ETA and OSHA standards.²

HOUSING INSPECTIONS are conducted by Montana Department of Labor and Industry through its Montana Job Service Offices on behalf of the U.S. Department of Labor. Housing which passes inspections receives a copy of the ETA338 certifying the housing for occupancy. A copy of the ETA338 Certificate of Occupancy must be posted at the site of the facility. The original of such certificate of occupancy shall be retained by such person for three years and made available for inspection.³

Definitions

Farmwork means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. This includes the raising of livestock, bees, fur-bearing animals, or poultry, the farming of fish, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. It also includes the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state. For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree products processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin. Farmwork also means any service or activity covered under §655.103(c) and/or 29 CFR 500.20(e) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

Farmworker means an individual employed in farmwork, as defined in this section.

Migrant farmworker means a seasonal farmworker (as defined in this section) who travels to the job site so that the farmworker is not reasonably able to return to his/her permanent residence within the same day. Full-time students traveling in organized groups rather than with their families are excluded.

Migrant food processing worker see Migrant Farmworker.

MSFW means a migrant farmworker or a seasonal farmworker.

Seasonal farmworker means an individual who is employed, or was employed in the past 12 months, in farmwork (as defined in this section) of a seasonal or other temporary nature and is not required to be absent overnight from his/her permanent place of residence. Non-migrant individuals who are full-time students are excluded. Labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in farmwork, is employed on a seasonal basis even though he/she may continue to be employed during a major portion of the year. A worker is employed on other temporary basis where he/she is employed for a limited time only or his/her performance is contemplated for a particular piece of work, usually of short duration. Generally, employment which is contemplated to continue indefinitely is not temporary.

Temporary nonimmigrant alien means a person who has a residence in a foreign country which he does not intend to abandon and who comes temporarily to the United States, with approval of the Attorney General, to perform temporary service or labor.

Applicability⁴

- (a) Each person who owns or controls a facility or real property which is used as housing for any migrant agricultural worker must ensure that the facility or real property complies with all substantive Federal and State safety and health standards applicable to such housing. If more than one person is involved in providing the housing for any migrant agricultural worker (for example, when an agricultural employer owns it and a farm labor contractor or any other person operates it), both

¹[Farmworker Protection Act](#)

²20CFR §654.400 Scope and purpose

³29CFR §500.135 Certificate of housing inspection.

⁴29CFR §500.130 Application and scope of safety and health requirement.

persons are responsible for ensuring that the facility or real property meets the applicable Federal and State housing standards.

- (b) A farm labor contractor, agricultural employer, agricultural association or any other person is deemed an “owner” of a housing facility or real property if said person has a legal or equitable interest in such facility or real property.
- (c) A farm labor contractor, agricultural employer, agricultural association or any other person is in “control” of a housing facility or real property, regardless of the location of such facility, if said person is in charge of or has the power or authority to oversee, manage, superintend or administer the housing facility or real property either personally or through an authorized agent or employee, irrespective of whether compensation is paid for engaging in any of the aforesaid capacities.
- (d) The Occupational Safety and Health Administration (OSHA) is the agency of the U.S. Department of Labor which administers the Occupational Safety and Health Act (29 U.S.C. 651 et seq.) which provides for the establishment of safety and health standards generally.
- (e) The Employment and Training Administration (ETA) is the agency of the U.S. Department of Labor which administers the U.S. Employment Service pursuant to the Wagner-Peyser Act (29 U.S.C. 49 et seq.) including the interstate clearance order system.

Exclusions⁵

The housing safety and health requirements do 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 any migrant agricultural worker of the same character and on the same or comparable terms and conditions as provided to the general public. Migrant labor housing shall not be brought within this exception simply by offering lodging to the general public.

Applicable Federal Standards⁶

- (a) The Secretary has determined that the applicable Federal housing standards are the standards promulgated by the Employment and Training Administration, at 20 CFR 654.404 et seq. and the standards promulgated by the Occupational Safety and Health Administration, at 29 CFR 1910.142. Except as provided in §500.131, all migrant housing is subject to either the ETA standards or the OSHA standards, as follows:
 - (1) A person who owns or controls a facility or real property to be used for housing any migrant agricultural worker, the construction of which was begun on or after April 3, 1980, and which was not under a contract for construction as of March 4, 1980, shall comply with the substantive Federal safety and health standards promulgated by OSHA at 29 CFR 1910.142. These OSHA standards are enforceable under MSPA, irrespective of whether housing is, at any particular point in time, subject to inspection under the Occupational Safety and Health Act.
 - (2) A person who owns or controls a facility or real property to be used for housing any migrant agricultural worker which was completed or under construction prior to April 3, 1980, or which was under a contract for construction prior to March 4, 1980, may elect to comply with either the substantive Federal safety and health standards promulgated by OSHA at 29 CFR 1910.142 or the standards promulgated by ETA at 20 CFR 654.404 et seq. The ETA standards were established to provide housing requirements for migrant housing used by an employer obtaining migrant workers through the U.S. Employment Service. The owner or operator of such housing may continue to rely on those standards, rather than OSHA standards, even if the housing is not currently being provided pursuant to a USES job placement program.

Exemptions⁷

- (a) **Family business exemption.** Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.
- (b) **Small business exemption.** Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable. That exemption applies to an agricultural employer who did not, during any calendar quarter of the preceding calendar year, use more man-days of agricultural labor than the limit specified under that statute.
 - (1) Currently the limit for exemption is 500 man-days.
 - (2) A man-day means any day during which an employee performs agricultural labor for not less than one (1) hour. Agricultural labor performed by an employer’s parent, spouse, child, or other member of his immediate family, i.e., step-children, foster children, step-parents and foster parents, brothers, and sisters is not counted as man-days.

⁵29CFR §500.131 Exclusion from housing safety and health requirement.

⁶29CFR §500.132 Applicable Federal standards: ETA and OSHA housing standards.

⁷29CFR §500.30 Persons not subject to the Act.

- (3) The man-days of agricultural labor rendered in a joint employment relationship are counted toward the man-days of such labor of each employer for purposes of the man-day test of this exemption.
- (c) **Common carriers.** Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker. A “common carrier” by motor vehicle is one which holds itself out to the general public to engage in transportation of passengers for hire, whether over regular or irregular routes, and which holds a valid certificate of authorization for such purposes from an appropriate local, State or Federal agency.
- (d) **Labor organizations.** Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.
- (e) **Nonprofit charitable organizations.** Any nonprofit charitable organization or public or private nonprofit educational institution.
- (f) **Local short-term contracting activity.** Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person’s permanent place of residence and for not more than thirteen weeks per year.
- (1) **Twenty-five mile intrastate radius** as used in section 4(a)(3)(D) of the Act means that engagement in a farm labor contracting activity may not go beyond a twenty-five mile intrastate geographical radius. Once this limit is transcended, the exemption no longer applies and the person becomes subject to the requirements of the Act. If, for example, a person or his employee solicits workers from a distance greater than twenty-five miles from his permanent residence or from across a State line, then the person has engaged in a named activity outside of the permitted scope of the exemption, and is subject to the requirements of the Act. A person who uses lines of communication (such as U.S. Mail, telephone, or advertising) to recruit, solicit, hire, or furnish workers over a distance greater than twenty-five miles from his permanent residence or from across a State line for agricultural employment is also engaged in a named activity beyond the specified limit of the exemption and is subject to the Act. In the case of a corporation its permanent place of residence for these purposes shall be a single designated location.
- (2) **For not more than thirteen weeks per year** as used in section 4(a)(3)(D) of the Act means that farm labor contracting activities may not be engaged in for more than thirteen weeks in a year. This does not mean, however, that persons who engage in intrastate and short-range farm labor contracting activities are exempt for the first thirteen weeks of their farm labor contracting activities each year. The number of weeks of contracting activity during the prior year is also a factor. When the limit of weeks for the exemption is exceeded in a calendar year, the person is subject immediately to the Act and is also presumed subject to the Act in the next calendar year, unless it can be shown that the tests of section 4(a)(3)(D) are met.
- (g) **Custom combine.** Any custom combine, hay harvesting, or sheep shearing operation. Custom combine, hay harvesting, and sheep shearing operation means the agricultural services and activities involved in combining grain, harvesting hay and shearing sheep which are provided to a farmer on a contract basis by a person who provides the necessary equipment and labor and who specializes on providing such services and activities.
- (h) **Custom poultry operations.** Any custom poultry harvesting, breeding, debeaking, desexing, or health service operation, provided the employees of the operation are not regularly required to be away from their permanent place of residence other than during their normal working hours.
- (i) **Seed production exemption.**
- (1) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.
- (2) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with paragraph (i)(1) of this section by a person who is exempt thereunder.
- (j) **Shade grown tobacco.**
- (1) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.
- (2) Any person to the extent he is supplied with students or other individuals for agricultural employment is accordance with paragraph (j)(1) of this section by a person who is exempt thereunder.
- (k) **Employees of exempt employers.** Any employee of any person described in paragraphs (c) through (j) of this section when performing farm labor contracting activities within the scope of such exemptions and exclusively for such person.

THE REGULATORY PROCESS

WAGE & HOUR INSPECTION VIOLATIONS & PENALTIES⁸

| Migrant and Seasonal Agricultural Worker Protection Act (MSPA) | | | |
|--|--------------------|-----------------|--|
| Type of Violation | Statutory Citation | CFR Citation | Maximum Civil Monetary Penalty after 1/13/2017 |
| (1) A violation of the Act or any regulation under the Act. | 29 USC 1853(a)(1) | 29 CFR 500.1(e) | \$2,394 |

| Immigration & Nationality Act (H-2A) | | | |
|--|--------------------|---------------------|--|
| Type of Violation | Statutory Citation | CFR Citation | Maximum Civil Monetary Penalty after 1/13/2017 |
| (1) Violation of the work contract or a requirement of 8 USC 1188, 20 CFR part 655 subpart B, or 29 CFR part 501; | 8 USC 1188(g)(2) | 29 CFR 500.1(c) | \$1,658 |
| (i) Willful violation of the work contract or a requirement of 8 USC 1188, 20 CFR part 655 subpart B, or 29 CFR part 501, or for each act of discrimination prohibited by section 501.4; | 8 USC 1188(g)(2) | 29 CFR 501.19(c)(2) | \$5,581 |
| (ii) Violation of a housing or transportation safety and health provision of the work contract, or any obligation under 8 USC 1188, 20 CFR part 655 subpart B, or 29 CFR part 501, that proximately causes the death or serious injury of any worker; | 8 USC 1188(g)(2) | 29 CFR 501.19(c)(2) | \$55,263 |
| (iii) Repeat or willful violation of a housing or transportation safety and health provision of the work contract, or any obligation under 8 USC 1188, 20 CFR part 655 subpart B, or 29 CFR part 501, that proximately causes the death or serious injury of any worker; | 8 USC 1188(g)(2) | 29 CFR 501.19(c)(4) | \$110,524 |
| (1) Violation for failure to cooperate in an investigation; | 8 USC 1188(g)(2) | 29 CFR 501.19(d) | \$5,581 |

MANAGEMENT OF MIGRANT FARMWORKER HOUSING

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 & 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.**

Request a pre-occupancy or annual inspection

The law says a Pre-Occupancy or Annual Inspection is necessary before occupancy. Get your request in early to your Local Job Service Office. 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 have your housing up to code, otherwise you are subject to fines if Wage and Hour Inspectors. Before the Local Job Service Office inspector comes, make sure your housing meets the applicable regulations. We do suggest you read the regulations.

Required posters⁹

The following posters are required to be displayed at the Agricultural housing site:



⁸ U.S. Wage & Hour Violations and Penalties

- Equal Employment Opportunity
- Family and Medical Leave Act (employers with 50 or more employees)
- Fair Labor Standards Act
- Job Safety and Health (OSHA)
- Employee Rights Under the H-2A Program (for H-2A Employers only)

Set up a plan for routine monitoring and regular maintenance

Continued care of your housing is essential during the season.

- Designate a person on your staff. Train them.
- Set a regular time to make the inspection.
- A monitoring worksheet will demonstrate diligence in the maintenance of your housing.

Encourage residents to keep the housing in good condition.

- Remind residents that housing will be checked every week. Post the monitoring worksheet.
- It is a common-use facility; help residents make a schedule for cleaning responsibilities.
- Thank residents for their help! Some growers add a bonus to the damage deposit if the housing is vacated in good condition.

Provide a tenant's agreement

The terms and conditions of occupancy must be clear, and should be in writing. The agreement must be written in a language the workers understand. Typical terms and conditions include:

- The amount of rent (if any);
- The due date of rent payments, if applicable;
- The amount of deposit (if any) required;¹⁰
- An occupancy limit;
- The amount of notice required before termination of the tenancy;
- Whether tenancy is dependent on continuing employment;
- The tenant's duties and responsibilities, including reasonable "house rules".

The [Montana Residential Landlord Tenant Act of 1977](#) does not necessarily apply to housing furnished by an employer to agricultural workers, but it may provide some guidance as to types of provisions that are generally allowable and generally prohibited. Because a written rental agreement has legal consequences, you may want to consult an attorney for assistance in preparing an appropriate agreement.

MONTANA SAFETY CULTURAL ACT¹¹

Requirements & Recommendations

Every employer shall establish, implement and maintain an educational based training program that shall at a minimum:

1. Provide all new employees with a general safety orientation containing information common to all employees and appropriate to the business's operations before they begin their regular job duties.

RECOMMENDATIONS – The orientation should contain both oral and written instruction and include, but be limited to, information on:

- Accident and hazard reporting procedures.

⁹<http://wsd.dli.mt.gov/employers/labor-law-posters>

¹⁰NOTE: Residential security deposits are subject to Montana laws. See [Residential Landlord and Tenant Act of 1977](#)

¹¹http://leg.mt.gov/bills/mca_toc/70_24.htm

- Emergency procedures.
 - Fire safety.
 - First aid.
 - Personal protective equipment.
 - Work site hazards
2. Provide job-specific or task-specific safety training appropriate for employees before they perform that job or task without direct supervision.

RECOMMENDATIONS – The training should:

- Include specific safety rules, procedures and hazards.
- Identify the employer’s and employee’s responsibilities regarding safety in the workplace.
- Be conducted by personnel knowledgeable of the task being trained.
- Be conducted when the safety program is established, job assignments change, new substances are introduced to the workplace and when a new hazard is identified.

3. Offer continuing, regular, refresher safety training.

RECOMMENDATIONS – The training should:

- Be held on an annual basis at a minimum and when necessary throughout the rest of the year.
- Contain material to maintain and expand knowledge and awareness of safety issues in the workplace.

4. Develop awareness and appreciation of safety through tools such as newsletters, periodic safety meetings, posters and safety incentive programs.

5. Provide periodic self-inspection for hazard assessment when the safety program is implemented, new work sites are established and thereafter as is appropriate to business operations – but at least annually – that:

- Identifies hazards and unsafe work practices or conditions.
- Identifies corrective action(s) needed.
- Documents corrective action(s) taken.

6. Include documentation of performance of activities listed in 1-5 (above). This documentation must be kept by the employer for three (3) years.

RECOMMENDATIONS – Documentation should include:

- Date, time, location, name of trainer and description of training, inspections and corrective action(s)
- List of participants.

Additional Requirements For Employers With More Than Five Employees

Employers with more than five employees must meet all the requirements listed on the previous pages as well as the additional requirements listed below. In making the determination of employment levels, the employers shall count all regular, temporary, leased and seasonal workers under the employer’s direction and control. The following requirements apply when there are more than five employees and remain in effect until the number of employees is less than six for three consecutive months.

1. Implement and maintain policies and procedures that assign specific safety responsibilities and safety performance accountability.
2. Implement and maintain procedures for reporting, investigating and taking corrective action on all work-related incidents, injuries, illnesses, fatalities and known unsafe work conditions or practices.

3. Shall have a safety committee in place that complies with the requirements listed under the title Safety Committee Requirements.

Safety Committee Requirements

The purpose of the MSCA is to create a safety culture in Montana's workplaces and reduce workplace injuries, illnesses and fatalities in the hope that by improving occupational safety and health, workers' compensation insurance rates for all industries will be reduced. Therefore, all employers with more than five employees are required to have a safety committee.

Safety Committee Waiver

You may qualify to waive the requirements of the safety committee. A waiver may be granted if you have evidence of the following:

- A written safety plan that complies with the provisions of the MSCA.
- Documentary evidence of employee participation in the safety program.
- A three-year average lost-workday incidence rate that is not greater than 55 percent of the current average incidence rate for Montana entities with the same North American Industrial Classification System (NAICS) code or
- A satisfactory experience modification factor, not greater than 0.87 (if the employer has an experience modification factor established).

For the purpose of determining when a waiver is appropriate, the Department of Labor & Industry annually establishes the average lost-workday incidence rate for occupational injuries and illnesses for Montana entities. The average incidence rate is applicable to entities with the same NAICS code. The average incidence rate is based upon Montana data. If sufficient Montana data is lacking for a given NAICS code, national data will be used. To obtain a copy of this list you can write the Occupational Safety and Health Bureau at P.O. Box 8011, Helena, MT 59601-8011; or call the bureau at 406-444-6401.

For more information or to obtain a waiver application, you can contact your workers' compensation insurer or the Occupational Safety and Health Bureau.

Compliance

Workers' Compensation insurers and the Department of Labor & Industry can assist employers with establishing safety programs that meet the requirements of the law. Your workers' compensation insurance contract or agreement requires the implementation of a safety program. If you fail to comply and refuse to participate in or follow through on recommendations resulting from safety consultation services offered by your workers' compensation insurer, you could see your workers' compensation premium increase as a result.

Occupational Safety and Health On-Site Consultation Program

This confidential program is available to private employers at no charge. For more information, contact the Department of Labor & Industry's Occupational Safety and Health Bureau, P.O. Box, 8011, Helena, MT 59604-8011 or call 406-444-6401.

REASONABLE HOUSE RULES EXAMPLE

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 PROTEJERLOS 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

MONTANA JOB SERVICE LOCATIONS

BILLINGS
2121-B Rosebud Dr
Billings, MT 59102
406-652-3080

GLENDIVE
211 S Kendrick Ave
Glendive, MT 59330
406-377-3314

KALISPELL
427 First Ave E
Kalispell, MT 59901
406-758-6200

SIDNEY
211 N Central Ave
Sidney, MT 59602
406-433-1204

BOZEMAN
121 N Willson Ave
Bozeman, MT 59715
406-582-9200

GREAT FALLS
1018 7th St S
Great Falls, MT 59405
406-791-5800

LIBBY
417 Mineral Ave #4
Libby, MT 59923
406-293-6282

POLSON
417B Main St
Polson, MT 59860
406-883-7880

BUTTE
2201 White Blvd
Butte, MT 59701
406-494-0300

HAVRE
160 First Ave
Havre, MT 59501
406-265-5847

MISSOULA
539 S Third St W
Missoula, MT 59801
406-728-7060

THOMPSON FALLS
2504 Tradewinds Wy #1
Thompson Falls, MT 59873
406-827-3472

CUT BANK
501 E Main St
Cut Bank, MT 59427
406-873-2191

HELENA
715 Front St
Helena, MT 59601
406-447-3200

MILES CITY
12 N 10th Street
Miles City, MT 59301
406-232-8340

WOLF POINT
201 Main St
Wolf Point, MT 59201
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Job Service

MONTANA

U.S. DEPARTMENT OF LABOR FEDERAL RESOURCES



APPLICABLE REFERENCES

TITLE II – MIGRANT AND SEASONAL PROTECTION ACT (MSPA)¹²

INFORMATION & RECORDKEEPING REQUIREMENTS

Sec. 201.

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 & 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 a 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 so 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.

¹² [Wage & Hour MSPA Title II](#)

¹³ [20CFR654 Housing for Farmworkers](#)

TITLE 20: CHAPTER V, PART 654 SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

HOUSING FOR FARMWORKERS¹³

PURPOSE AND APPLICABILITY

20 CFR §654.400 SCOPE AND PURPOSE.

(a) This subpart sets forth the Department's Employment and Training Administration (ETA) standards for agricultural housing and variances. Local Wagner-Peyser Act Employment Service (ES) offices, as part of the State ES agencies and in cooperation with the ES program, assist employers in recruiting farmworkers from places outside the area of intended employment. The experiences of the ES agencies 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 ES system to deny its intrastate and interstate recruitment services to employers until the State ES agency has ascertained that the employer's housing meets certain standards.

(b) To implement this policy, §653.501 of this chapter provides that recruitment services must be denied unless the employer has signed an assurance that if the workers are to be housed, a preoccupancy inspection has been conducted, and the ES staff has ascertained that, with respect to intrastate or interstate clearance orders, the employer's housing meets the full set of standards set forth at 29 CFR 1910.142 or this subpart, except that mobile range housing for sheepherders or goatherders must meet existing Departmental guidelines and/or applicable regulations.

20 CFR §654.401 APPLICABILITY.

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

(b) The Department will consider agricultural housing which complies with ETA transitional standards set forth in this subpart also to comply with the Occupational Safety and Health Administration (OSHA) temporary labor camp standards at 29 CFR 1910.142.

20 CFR §654.402 VARIANCES.

(a) An employer may apply for a structural variance from a specific standard(s) in this subpart by filing a written application for such a variance with the local ES office serving the area in which the housing is located. This application must:

(1) Clearly specify the standard(s) from which the variance is desired;

(2) Adequately justify 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 ES office must send the request to the State office which, in turn, must forward it to the ETA Regional Administrator (RA). The RA must review the matter and, after consultation with OSHA, must either grant or deny the request for a variance.

(c) The variance granted by the RA must be in writing, must state the particular standard(s) involved, and must 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 must send the approved variance to the employer and must send copies to OSHA's Regional Administrator, the Regional Administrator of the Wage and Hour Division (WHD), and the appropriate State Workforce Agency (SWA) and the local ES office. The employer must submit and the local ES office must 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 must provide written notice stating the reasons for the denial to the employer, the appropriate SWA, and the local ES office. The notice also must offer the employer an opportunity to request a hearing before a Department of Labor 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 must be handled in accordance with the complaint procedures set forth at §§658.424 and 658.425 of this chapter.

(e) The procedures of paragraphs (a) through (d) of this section 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 §§654.404 through 654.417.

ETA HOUSING STANDARDS

20 CFR §654.404 HOUSING SITE.

(a) Housing sites must be well drained and free from depressions in which water may stagnate. They must 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 must 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 must be free from debris, noxious plants (poison ivy, etc.) and uncontrolled weeds or brush.

(d) The housing site must 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 must be provided.

(b) A cold water tap must be available within 100 feet of each individual living unit when water is not provided in the unit. Adequate drainage facilities must be provided for overflow and spillage.

(c) Common drinking cups are not permitted.

20 CFR §654.406 EXCRETA AND LIQUID WASTE DISPOSAL.

(a) Facilities must be provided and maintained for effective disposal of excreta and liquid waste. Raw or treated liquid waste may 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 must 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 must be provided. Any requirements of the State health authority must be complied with.

20 CFR §654.407 HOUSING.

(a) Housing must be structurally sound, in good repair, in a sanitary condition and must provide protection to the occupants against the elements.

(b) Housing must 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 must 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; and

(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 must have a room or partitioned sleeping area for the husband and wife. The partition must be of rigid materials and installed so as to provide reasonable privacy.

(e) Separate sleeping accommodations must 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 must be provided.

(g) At least one-half of the floor area in each living unit must have a minimum ceiling height of 7 feet. No floor space may be counted toward minimum requirements where the ceiling height is less than 5 feet.

(h) Each habitable room (not including partitioned areas) must 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, must equal at least 10 percent of the usable floor area. The total openable area must 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 must be protected with screening of not less than 16 mesh.

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

20 CFR §654.409 HEATING.

(a) All living quarters and service rooms must be provided with properly installed, operable heating equipment capable of maintaining a temperature of at least 68 degrees Fahrenheit (°F) if during the period of normal occupancy the temperature in such quarters falls below 68 °F.

(b) Any stoves or other sources of heat utilizing combustible fuel must 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 may be provided. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there must 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 must be of fireproof material. A vented metal collar must 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 must 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.

20 CFR §654.410 ELECTRICITY AND LIGHTING.

(a) All housing sites must 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., must contain adequate ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet must be provided in each individual living room.

(c) Adequate lighting must be provided for the yard area, and pathways to common use facilities.

(d) All wiring and lighting fixtures must be installed and maintained in a safe condition.

20 CFR §654.411 TOILETS.

(a) Toilets must be constructed, located, and maintained so as to prevent any nuisance or public health hazard.

(b) Water closets or privy seats for each sex must 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 must be provided. If toilet facilities for men and women are in the same building, they must be separated by a solid wall from floor to roof or ceiling. Toilets must 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, must be furnished.

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

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

(h) Privies may 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 must be fly-tight. Privy pits must 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, must be provided for the use of all occupants. These facilities must be clean and sanitary and located within 200 feet of each living unit.

(b) There must be a minimum of 1 showerhead per 15 persons. Showerheads must be spaced at least 3 feet apart, with a minimum of 9 square feet of floor space per unit. Adequate, dry dressing space must be provided in common use facilities. Shower floors must

be constructed of nonabsorbent nonskid materials and sloped to properly constructed floor drains. Except in individual family units, separate shower facilities must be provided each sex. When common use shower facilities for both sexes are in the same building they must be separated by a solid nonabsorbent wall extending from the floor to ceiling, or roof, and must 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 must be provided in a ratio of 1 per 15 persons.

(d) Laundry facilities, supplied with hot and cold water under pressure, must be provided for the use of all occupants. Laundry trays or tubs must 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 must 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 must be provided and equipped for cooking and eating. Such space must be provided with:

(b) A cookstove or hot plate with a minimum of two burners;

(c) Adequate food storage shelves and a counter for food preparation;

(d) Provisions for mechanical refrigeration of food at a temperature of not more than 45 °F;

(e) A table and chairs or equivalent seating and eating arrangements, all commensurate with the capacity of the unit; and

(f) Adequate lighting and ventilation.

(g) 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 must be provided for cooking and eating. Such room or building must be provided with:

(1) Stoves or hot plates, with a minimum equivalent of 2 burners, in a ratio of 1 stove or hot plate to 10 persons, or 1 stove or hot plate to 2 families;

(2) Adequate food storage shelves and a counter for food preparation;

(3) Mechanical refrigeration for food at a temperature of not more than 45 °F;

(4) Tables and chairs or equivalent seating adequate for the intended use of the facility;

(5) Adequate sinks with hot and cold water under pressure;

(6) Adequate lighting and ventilation; and

(7) Floors must be of nonabsorbent, easily cleaned materials.

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

(i) Wall surface adjacent to all food preparation and cooking areas must be of nonabsorbent, easily cleaned material. In addition, the wall surface adjacent to cooking areas must 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, must be provided adjacent to each housing unit for the storage of garbage and other refuse. Such containers must be provided in a minimum ratio of 1 per 15 persons.

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

20 CFR §654.415 INSECT AND RODENT CONTROL.

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

20 CFR §654.416 SLEEPING FACILITIES.

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

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

(c) Triple deck bunks may 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 must be a minimum of 27 inches. The distance from the top of the upper mattress to the ceiling must 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 must 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 must be provided. One of the two required means of escape may be a readily accessible window with an openable space of not less than 24 × 24 inches.

(c) All sleeping quarters intended for use by 10 or more persons, central dining facilities, and common assembly rooms must 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 must have a stairway, and a permanent, affixed exterior ladder or a second stairway.

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

(f) Fire extinguishing equipment must be provided in a readily accessible place located not more than 100 feet from each housing unit. Such equipment must provide protection equal to a 2½ gallon stored pressure or 5-gallon pump-type water extinguisher.

Note: Fire extinguishers carry a size and type classification rating, which appears in the following form: 1-A:10-B:C; 2-A:20-B:C; 3-A:40-B:C; 5B:C; etc. This classification appears on the unit labeling, in the area under the “UL” symbol. The **alpha characters** indicate the types of fire the unit will be effective on. The number in front of the “A” indicates the **fire-quenching capability of the unit compared to water**. The equivalency factor is 1:1.25. This means that a dry chemical unit rated as “1” is equal in fire quenching capacity to a water-only unit of 1.25 gallons capacity. A unit rated as “2” is the dry-chemical equivalent of a water unit of 2.5 gallons capacity. In summary: To obtain the “**water equivalency**” of a dry-chemical unit, the number preceding the “A” is multiplied by 1.25. The number preceding the “B” is an indicator of how many **square feet** of liquid-fueled fire can typically be extinguished by a “non-expert” user.

(g) First aid facilities must be provided and readily accessible for use at all time. 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.

The Red Cross recommends that all first aid kits include the following:

- 2 absorbent compress dressings (5 x 9 inches)
- 25 adhesive bandages (assorted sizes)
- 1 adhesive cloth tape (10 yards x 1 inch)
- 5 antibiotic ointment packets (approximately 1 gram)
- 5 antiseptic wipe packets
- 2 packets of aspirin (81 mg each)
- 1 blanket (space blanket) [Available on the Red Cross Store]
- 1 breathing barrier (with one-way valve)

- 1 instant cold compress
- 2 pair of nonlatex gloves (size: large)
- 2 hydrocortisone ointment packets (approximately 1 gram each)
- Scissors
- 1 roller bandage (3 inches wide)
- 1 roller bandage (4 inches wide)
- 5 sterile gauze pads (3 x 3 inches) [Available on the Red Cross Store]
- 5 sterile gauze pads (4 x 4 inches)
- Oral thermometer (non-mercury/nonglass)
- 2 triangular bandages
- Tweezers
- First aid instruction booklet

(h) No flammable or volatile liquids or materials must 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 may not be stored in the housing area.

OCCUPATIONAL SAFETY AND HEALTH HOUSING STANDARDS

(Applies to housing built after April 30, 1980)

29 CFR §1910.142 TEMPORARY LABOR CAMPS¹⁴

(a) SITE

(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.

(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.

¹⁴ [OSHA Housing Standards](#)

(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.

(b) SHELTER

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

(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.

(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.

(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.

(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.

(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.

(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.

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

(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.

(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.

(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.

(c) WATER SUPPLY

(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.

(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.

(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.

(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.

(d) TOILET FACILITIES

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

(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.

(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.

(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.

(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.

(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.

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

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

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

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

(e) SEWAGE DISPOSAL FACILITIES

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

(f) LAUNDRY, HANDWASHING, AND BATHING FACILITIES

(1) Laundry, handwashing, and bathing facilities shall be provided in the following ratio:

- i. Handwash basin per family shelter or per six persons in shared facilities.
- ii. Shower head for every 10 persons.
- iii. Laundry tray or tub for every 30 persons.
- iv. Slop sink in each building used for laundry, hand washing, and bathing.

(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.

(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.

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

(5) Facilities for drying clothes shall be provided.

(6) All service buildings shall be kept clean.

(g) LIGHTING

“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.

(h) REFUSE DISPOSAL

(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.

(2) Garbage containers shall be kept clean.

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

(i) CONSTRUCTION AND OPERATION OF KITCHENS, DINING HALL, & FEEDING FACILITIES

(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.

(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.

(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.

(j) INSECT AND RODENT CONTROL

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

(k) FIRST AID

(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.

(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.

(I) REPORTING COMMUNICABLE DISEASE

(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.

(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.

RESIDENTIAL LANDLORD AND TENANT ACT OF 1977

MCA 70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector or carbon monoxide detector.

(1) A landlord:

a. shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

b. may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured;

c. shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

d. shall keep all common areas of the premises in a clean and safe condition;

e. shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

f. shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

g. shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and

May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

h. shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke detector, in accordance with rules adopted by the department of justice. Upon commencement of a rental agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling unit are in good working order. The tenant shall maintain the carbon monoxide detector and the smoke detector in good working order during the tenant's rental period. For the purposes of this subsection, an approved carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113, bear a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through (1)(h), a landlord's duty must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in subsections (1)(f) and (1)(g) and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

a. the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

b. the work is not necessary to cure noncompliance with subsection (1)(a); and

c. the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the carbon monoxide detector or the smoke detector required under subsection (1)(h).

RANGE HOUSING (FOR TEMPORARY AGRICULTURAL EMPLOYEES – H2A WORKERS)

20 CFR §655.230 RANGE HOUSING.

(a) Housing for work performed on the range must meet the minimum standards contained in §655.235 and §655.122(d)(2).

(b) The SWA with jurisdiction over the location of the range housing must inspect and certify that such housing used on the range is sufficient to accommodate the number of certified workers and meets all applicable standards contained in §655.235. The SWA must conduct a housing inspection no less frequently than once every three calendar years after the initial inspection and provide documentation to the employer certifying the housing for a period lasting no more than 36 months. If the SWA (State Workforce Agency) determines that an employer's housing cannot be inspected within a 3-year timeframe or, when it is inspected, the housing does not meet all the applicable standards, the CO (Certifying Officer) may deny the H-2A application in full or in part or require additional inspections, to be carried out by the SWA, in order to satisfy the regulatory requirement.

(c)

(1) The employer may self-certify its compliance with the standards contained in §655.235 only when the employer has received a certification from the SWA for the range housing it seeks to use within the past 36 months.

(2) To self-certify the range housing, the employer must submit a copy of the valid SWA housing certification and a written statement, signed and dated by the employer, to the SWA and the CO assuring that the housing is available, sufficient to accommodate the number of workers being requested for temporary labor certification, and meets all the applicable standards for range housing contained in §655.235.

(d) The use of range housing at a location other than the range, where fixed site employer-provided housing would otherwise be required, is permissible only when the worker occupying the housing is performing work that constitutes the production of livestock (which includes work that is closely and directly related to herding and/or the production of livestock). In such a situation, workers must be granted access to facilities, including but not limited to toilets and showers with hot and cold water under pressure, as well as cooking and cleaning facilities, that would satisfy the requirements contained in §655.122(d)(1)(i). When such work does not constitute the production of livestock, workers must be housed in housing that meets all the requirements of §655.122(d).

20 CFR §655.235 STANDARDS FOR RANGE HOUSING.

An employer employing workers under §§655.200-655.235 may use a mobile unit, camper, or other similar mobile housing vehicle, tents, and remotely located stationary structures along herding trails, which meet the following standards:

(a) HOUSING SITE

Range housing sites must be well drained and free from depressions where water may stagnate.

(b) WATER SUPPLY

(1) An adequate and convenient supply of water that meets the standards of the state or local health authority must be provided.

(2) The employer must provide each worker at least 4.5 gallons of potable water, per day, for drinking and cooking, delivered on a regular basis, so that the workers will have at least this amount available for their use until this supply is next replenished. Employers must also provide an additional amount of water sufficient to meet the laundry and bathing needs of each worker. This additional water may be non-potable, and an employer may require a worker to rely on natural sources of water for laundry and bathing needs if these sources are available and contain water that is clean and safe for these purposes. If an employer relies on alternate water sources to meet any of the workers' needs, it must take precautionary measures to protect the worker's health where these sources are also used to water the herd, dogs, or horses, to prevent contamination of the sources if they collect runoff from areas where these animals excrete.

(3) The water provided for use by the workers may not be used to water dogs, horses, or the herd.

(4) In situations where workers are located in areas that are not accessible by motorized vehicle, an employer may request a variance from the requirement that it deliver potable water to workers, provided the following conditions are satisfied:

i. It seeks the variance at the time it submits its H-2A Application for Temporary Employment Certification, Form ETA-9142A;

ii. It attests that it has identified natural sources of water that are potable or may be easily rendered potable in the area in which the housing will be located, and that these sources will remain available during the period the worker is at that location;

iii. It attests that it shall provide each worker an effective means to test whether the water is potable and, if not potable, the means to easily render it potable; and

iv. The CO approves the variance.

(5) Individual drinking cups must be provided; and

(6) Containers appropriate for storing and using potable water must be provided and, in locations subject to freezing temperatures, containers must be small enough to allow storage in the housing unit to prevent freezing.

(c) EXCRETA AND LIQUID WASTE DISPOSAL

(1) Facilities, including shovels, must be provided and maintained for effective disposal of excreta and liquid waste in accordance with the requirements of the state health authority or involved Federal agency; and

(2) If pits are used for disposal by burying of excreta and liquid waste, they must be kept fly-tight when not filled in completely after each use. The maintenance of disposal pits must be in accordance with state and local health and sanitation requirements.

(d) HOUSING STRUCTURE

- (1) Housing must be structurally sound, in good repair, in a sanitary condition and must provide shelter against the elements to occupants;
- (2) Housing, other than tents, must 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 must have at least one window that can be opened or skylight opening directly to the outdoors; and
- (4) Tents appropriate to weather conditions may be used only where the terrain and/or land use regulations do not permit the use of other more substantial housing.

(e) HEATING

- (1) Where the climate in which the housing will be used is such that the safety and health of a worker requires heated living quarters, all such quarters must have properly installed operable heating equipment that supplies adequate heat. Where the climate in which the housing will be used is mild and the low temperature for any day in which the housing will be used is not reasonably expected to drop below 50 degrees Fahrenheit, no separate heating equipment is required as long as proper protective clothing and bedding are made available, free of charge or deposit charge, to the workers.
- (2) Any stoves or other sources of heat using combustible fuel must be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there must 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 must be made of fireproof material. A vented metal collar must 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 must be of the type that cuts off the fuel supply when the flame fails or is interrupted or whenever a predetermined safe temperature or pressure is exceeded.
- (5) A heater may be used in a tent if the heater is approved by a testing service and if the tent is fireproof.

(f) LIGHTING

- (1) In areas where it is not feasible to provide electrical service to range housing units, including tents, lanterns must be provided (kerosene wick lights meet the definition of lantern); and
- (2) Lanterns, where used, must be provided in a minimum ratio

of one per occupant of each unit, including tents.

(g) BATHING, LAUNDRY, AND HANDWASHING

Bathing, laundry and hand washing facilities must 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 dehydrating or 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 must be provided with adequate lighting and ventilation; and
- (2) Wall surfaces next to all food preparation and cooking areas must be of nonabsorbent, easy to clean material. Wall surfaces next to cooking areas must be made of fire-resistant material.

(j) GARBAGE AND OTHER REFUSE

- (1) Durable, fly-tight, clean containers must be provided to each housing unit, including tents, for storing garbage and other refuse; and
- (2) Provision must be made for collecting or burying refuse, which includes garbage, at least twice a week or more often if necessary, except where the terrain in which the housing is located cannot be accessed by motor vehicle and the refuse cannot be buried, in which case the employer must provide appropriate receptacles for storing the refuse and for removing the trash when the employer next transports supplies to the location.

(k) INSECT AND RODENT CONTROL

Appropriate materials, including sprays, and sealed containers for storing food, must be provided to aid housing occupants in combating insects, rodents and other vermin.

(l) SLEEPING FACILITIES

A separate comfortable and clean bed, cot, or bunk, with a clean mattress, must be provided for each person, except in a family arrangement, unless a variance is requested from and granted by the CO. When filing an application for certification and only where it is demonstrated to the CO that it is impractical to provide a comfortable and clean bed, cot, or bunk, with a clean mattress, for each range worker, the employer may request a variance from this requirement to allow for a second worker to join the range operation. Such a variance must be used infrequently, and the period of the variance will be temporary, i.e., the variance shall be for no

more than 3 consecutive days. Should the CO grant the variance, the employer must supply a sleeping bag or bed roll for the second occupant free of charge or deposit charge.

(m) FIRE, SAFETY, AND FIRST AID

- (1) All units in which people sleep or eat must be constructed and maintained according to applicable state or local fire and safety law.
- (2) No flammable or volatile liquid or materials may be stored in or next to rooms used for living purposes, except for those needed for current household use.
- (3) Housing units for range use must have a second means of escape through which the worker can exit the unit without difficulty.
- (4) Tents are not required to have a second means of escape, except when large tents with walls of rigid material are used.
- (5) Adequate, accessible fire extinguishers in good working condition and first aid kits must be provided in the range housing.

OCCUPATIONAL SAFETY AND HEALTH FIELD SANITATION

29 CFR §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 in the field.

(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 for 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).

Handwashing 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 for 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 Primary Drinking Water Regulations (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 handwashing facilities.

- i. One toilet facility and one handwashing 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 handwashing 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 handwashing facilities are not required for employees who perform field work 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 handwashing 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. Handwashing 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 agricultural residues:

i. Use the water and facilities provided for drinking, handwashing 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.

OSHA GENERAL ENVIRONMENTAL CONTROLS

29 CFR §1910.141 SANITATION.

(a) General

(1) Scope. This section applies to permanent places of employment.

(2) Definitions applicable to this section.

Nonwater carriage toilet facility, means a toilet facility not

connected to a sewer.

Number of employees means, unless otherwise specified, the maximum number of employees present at any one time on a regular shift.

Personal service room, means a room used for activities not directly connected with the production or service function performed by the establishment. Such activities include, but are not limited to, first-aid, medical services, dressing, showering, toilet use, washing, and eating.

Potable water means water that meets the standards for 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 Primary Drinking Water Regulations (40 CFR 141).

Toilet facility, means a fixture maintained within a toilet room for the purpose of defecation or urination, or both.

Toilet room, means a room maintained within or on the premises of any place of employment, containing toilet facilities for use by employees.

Toxic material means a material in concentration or amount which exceeds the applicable limit established by a standard, such as §§1910.1000 and 1910.1001 or, in the absence of an applicable standard, which is of such toxicity so as to constitute a recognized hazard that is causing or is likely to cause death or serious physical harm.

Urinal means a toilet facility maintained within a toilet room for the sole purpose of urination.

Water closet means a toilet facility maintained within a toilet room for the purpose of both defecation and urination and which is flushed with water.

Wet process means any process or operation in a workroom which normally results in surfaces upon which employees may walk or stand becoming wet.

(3) Housekeeping.

i. All places of employment shall be kept clean to the extent that the nature of the work allows.

ii. The floor of every workroom shall be maintained, so far as practicable, in a dry condition. Where wet processes are used, drainage shall be maintained and false floors, platforms, mats, or other dry standing places shall be provided, where practicable, or appropriate waterproof footwear shall be provided.

iii. To facilitate cleaning, every floor, working place, and passageway shall be kept free from protruding nails, splinters, loose boards, and unnecessary holes and openings.

(4) Waste disposal.

i. Any receptacle used for putrescible solid or liquid waste or refuse shall be so constructed that it does not leak and may be thoroughly cleaned and maintained in a sanitary condition. Such a receptacle shall be equipped with a solid tight-fitting cover, unless it can be maintained in a sanitary condition without a cover. This requirement does not prohibit the use of receptacles which are designed to permit the maintenance of a sanitary condition without regard to the aforementioned requirements.

ii. All sweepings, solid or liquid wastes, refuse, and garbage shall be removed in such a manner as to avoid creating a menace to health and as often as necessary or appropriate to maintain the place of employment in a sanitary condition.

(5) Vermin control. Every enclosed workplace shall be so constructed, equipped, and maintained, so far as reasonably practicable, as to prevent the entrance or harborage of rodents, insects, and other vermin. A continuing and effective extermination program shall be instituted where their presence is detected.

(b) Water supply

(1) Potable water.

i. Potable water shall be provided in all places of employment, for drinking, washing of the person, cooking, washing of foods, washing of cooking or eating utensils, washing of food preparation or processing premises, and personal service rooms.

ii. [Reserved]

iii. Portable drinking water dispensers shall be designed, constructed, and serviced so that sanitary conditions are maintained, shall be capable of being closed, and shall be equipped with a tap.

iv. [Reserved]

v. Open containers such as barrels, pails, or tanks for drinking water from which the water must be dipped or poured, whether or not they are fitted with a cover, are prohibited.

vi. A common drinking cup and other common utensils are prohibited.

(2) Nonpotable water.

i. Outlets for nonpotable water, such as water for industrial or firefighting purposes, shall be posted or otherwise marked in a manner that will indicate clearly that the water is unsafe and is not to be used for drinking, washing of the person, cooking, washing of food, washing of cooking or eating utensils, washing of food preparation or processing premises, or personal service rooms, or for washing clothes.

ii. Construction of nonpotable water systems or systems carrying any other nonpotable substance shall be such as to prevent backflow or backsiphonage into a potable water system.

iii. Nonpotable water shall not be used for washing any portion of the person, cooking or eating utensils, or clothing. Nonpotable water may be used for cleaning work premises, other than food processing and preparation premises and personal service rooms: Provided, That this nonpotable water does not contain concentrations of chemicals, fecal coliform, or other substances which could create insanitary conditions or be harmful to employees.

(c) Toilet facilities

(1) General.

i. Except as otherwise indicated in this paragraph (c)(1)(i), toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with table J-1 of this section. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of table J-1.

Table J-1

| Number of employees | Minimum number of water closets ¹ |
|---------------------|--|
| 1 to 15 | 1 |
| 16 to 35 | 2 |
| 36 to 55 | 3 |
| 56 to 80 | 4 |
| 81 to 110 | 5 |
| 111 to 150 | 6 |
| Over 150 | (²) |

¹Where toilet facilities will not be used by women, urinals may be provided instead of water closets, except that the number of water closets in such cases shall not be reduced to less than 2/3 of the minimum specified.

²1 additional fixture for each additional 40 employees.

ii. The requirements of paragraph (c)(1)(i) of this section do not apply to mobile crews or to normally unattended work locations so long as employees working at these locations have transportation immediately available to nearby toilet facilities which meet the other requirements of this subparagraph.

iii. The sewage disposal method shall not endanger the health of employees.

(2) Construction of toilet rooms.

i. Each water closet shall occupy a separate compartment with a door and walls or partitions between fixtures sufficiently high to assure privacy.

(d) Washing facilities

(1) General. Washing facilities shall be maintained in a sanitary condition.

(2) Lavatories.

i. Lavatories shall be made available in all places of employment. The requirements of this subdivision do not apply to mobile crews or to normally unattended work locations if employees working at these locations have transportation readily available to nearby washing facilities which meet the other requirements of this paragraph.

ii. Each lavatory shall be provided with hot and cold running water, or tepid running water.

iii. Hand soap or similar cleansing agents shall be provided.

iv. Individual hand towels or sections thereof, of cloth or paper, air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

(3) Showers.

i. Whenever showers are required by a particular standard, the showers shall be provided in accordance with paragraphs (d)(3) (ii) through (v) of this section.

ii. One shower shall be provided for each 10 employees of each sex, or numerical fraction thereof, who are required to shower during the same shift.

iii. Body soap or other appropriate cleansing agents convenient to the showers shall be provided as specified in paragraph (d)(2)(iii) of this section.

iv. Showers shall be provided with hot and cold water feeding a common discharge line.

v. Employees who use showers shall be provided with individual clean towels.

(e) Change rooms. Whenever employees are required by a particular standard to wear protective clothing because of the possibility of contamination with toxic materials, change rooms equipped with storage facilities for street clothes and separate storage facilities for the protective clothing shall be provided.

(f) Clothes drying facilities. Where working clothes are provided by the employer and become wet or are washed between shifts, provision shall be made to insure that such clothing is dry before reuse.

(g) Consumption of food and beverages on the premises

(1) Application. This paragraph shall apply only where employees are permitted to consume food or beverages, or both, on the premises.

(2) Eating and drinking areas. No employee shall be allowed to consume food or beverages in a toilet room nor in any area exposed to a toxic material.

(h) Waste disposal containers. Receptacles constructed of smooth, corrosion resistant, easily cleanable, or disposable materials, shall be provided and used for the disposal of waste food. The number, size, and location of such receptacles shall encourage their use and not result in overfilling. They shall be emptied not less frequently than once each working day, unless unused, and shall be maintained in a clean and sanitary condition. Receptacles shall be provided with a solid tight-fitting cover unless sanitary conditions can be maintained without use of a cover.

(i) Sanitary storage. No food or beverages shall be stored in toilet rooms or in an area exposed to a toxic material.

(j) Food handling. All employee food service facilities and operations shall be carried out in accordance with sound hygienic principles. In all places of employment where all or part of the food service is provided, the food dispensed shall be wholesome, free from spoilage, and shall be processed, prepared, handled, and stored in such a manner as to be protected against contamination.