

U.S.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (*FIELD SANITATION*)

STATUTORY CITATION: 29 USC §§ 651 – 678

RELATED REGULATIONS: 29 CFR § 1928.110

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has developed and adopted regulations requiring certain agricultural employers to provide field workers with drinking water, toilet facilities and handwashing facilities at the place of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Every farm operator or other agricultural establishment that has 11 or more employees on any given day in hand-labor operations in the field must provide the workers with the sanitation facilities described below, without cost to the employees. The employer is required to notify workers of the location of the facilities and afford them reasonable opportunities during the workday to use them.

POTABLE DRINKING WATER — Field workers are entitled to a sufficient amount of suitably cool, readily accessible drinking water which meets applicable state or federal standards for drinking purposes. The water provided must be dispensed in single-use drinking cups or by fountain; the use of common drinking cups or dippers is prohibited. Likewise, vessels used to store and dispense water must be kept covered, refilled daily (or more often, if necessary), and cleaned regularly.

TOILET AND HANDWASHING FACILITIES —

Required Equipment and Exception — Subject employers must provide one toilet and one handwashing facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Toilet and handwashing facilities are not required for employees who perform field work for a period of 3 hours or less during the day (including travel time to and from the field).

Distance Limitation — Sanitation equipment generally must be located within a 1/4-mile walk of each worker's location in the field. However, where the terrain precludes compliance with the distance limitation, the facilities must be placed at the point of closest vehicular access to the field. The toilet and handwashing facilities must be in close proximity to each other.

Design, Maintenance, and Supplies — Toilet facilities must be adequately ventilated and screened, must have self-closing doors, and must be constructed to assure privacy. Employers are required to maintain toilets and handwashing units in clean and sanitary condition, and to equip such facilities with an adequate supply of toilet paper, soap and single-use towels.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits the enforcement agency from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. The enforcement agency is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* On any farm or at any establishment subject to the field sanitation standards, this agency has authority to investigate complaints, issue citations, propose and enforce administrative penalties, and file and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the U.S. Occupational Safety and Health Administration a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (*see special note above*) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions regulating field sanitation have been approved and are in effect in the following states: *Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington.*

Arizona

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (*FIELD SANITATION*)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 – 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-670

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Every agricultural establishment where a crew of 5 or more workers is performing hand-labor operations in one location on any given day must provide sanitation facilities to the workers, as described in brief below.

DRINKING WATER — For every worker at the job site, covered employers are required to provide no less than 2 gallons of potable drinking water, at a temperature of no more than 80 degrees F. and at a readily accessible location. The water must meet prescribed standards of purity and must be dispensed in single-use drinking cups or by fountains.

TOILET AND HANDWASHING FACILITIES — For workers who perform field work for a period of more than 3 hours during the day (including transportation time to and from the field), there must be at least one toilet and one handwashing facility for every 40 such workers or fraction thereof. Toilet and washing equipment must be located in close proximity to each other, and within 1/4 mile of each employee's place of work in the field. If the terrain prevents the employer from complying with the 1/4-mile distance limit, facilities must be located at the point nearest the workers where entry by vehicle is possible. Sanitary facilities must be kept clean and fully operational, and workers must be allowed reasonable opportunities during the workday to use them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251)*. Any employee or representative of employees who believes a violation exists which threatens the physical well-being of any worker may request an investigation by ADOSH. Whenever an inspection or investigation reveals a probable violation, the agency must issue a citation to the employer, who in turn must correct the violation or protest the citation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

California

● FOOD CROP SANITATION LAW

STATUTORY CITATION: Cal. Health & Safety Code §§ 113310–113360

RELATED REGULATIONS: Cal. Code Regs. Title 17, §§ 8000–8013

GENERAL SUMMARY: To maintain the sanitary conditions under which California's food crops are grown and harvested, and to protect the health and dignity of the workers employed in the growing and harvesting of such crops, agricultural employers are required to provide toilet and handwashing facilities in any field activity which involves a food crop and where 5 or more employees are working as a crew, unit or group for a period of 2 or more hours.

SPECIFIC TERMS AND CONDITIONS

TOILET FACILITIES — Each toilet unit (1) must provide at least 8 square feet, with a minimum width of 2 1/2 feet for each seat, and (2) must be ventilated and provided with self-closing doors lockable from the inside. Units housing toilet and handwashing facilities must be rigidly constructed, with inside surfaces made of non-absorbent, readily cleanable material. Toilet paper must be furnished at all such facilities.

HANDWASHING FACILITIES — Handwashing facilities must enable workers to wash their hands in clean water, using soap or other suitable cleansing agent, with a sign posted indicating that the water is for handwashing only. The water tank must have a minimum capacity of 15 gallons.

LOCATION OF FACILITIES — In general, toilet and handwashing equipment must be stationed within a 5-minute walk of the workplace. Whenever roads, terrain or other physical conditions prevent compliance with this distance limitation, such facilities should be located at the point of vehicular access closest to the workers.

SPECIAL NOTES OR ADVISORIES

SUSPENSION OF EMPLOYMENT SERVICES — Each agency enforcing the food crop sanitation law must report any violation of which it has knowledge to all offices of the Employment Development Department in the county where the violation occurs. The Employment Development Department is prohibited from referring workers to any employer or food crop operation identified in such a report until the agency reporting the violation certifies that the violation has been corrected.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – These provisions are enforced primarily by local health officers, who may be assisted by county agricultural commissioners. Violation of the food crop sanitation law is a misdemeanor criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *California Department of Industrial Relations, Oakland, California 94612 (510-286-7000); California Department of Public Health, Sacramento, California 95814 (916-558-1784); California Department of Food and Agriculture, Sacramento, California 95814 (916-900-5030).*

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (*FIELD SANITATION*)

STATUTORY CITATION: Cal. Lab. Code §§ 6300–6719

RELATED REGULATIONS: Cal. Code Regs. Title 8, § 3457

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the administering agency has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. California's field sanitation standards are similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) but are substantially more detailed and may be applied to any hand-labor agricultural operation in the state, without respect to the number of workers employed.

POTABLE DRINKING WATER — Farm employers must provide a sufficient supply of fresh, cool, potable drinking water to their employees performing hand-labor operations in the field. The water must be readily accessible, and workers must be allowed access to the water at all times. Water must be dispensed in single-use drinking cups or from fountains.

TOILET FACILITIES — At locations where there are 5 or more workers, employers must provide separate toilet facilities for each sex, at a ratio of one toilet for every 20 workers or fraction thereof; where there are fewer than 5 workers, separate toilets for each sex are not required. All toilet units must be ventilated, have self-closing doors that can be locked from the inside, be screened to prevent entry of flies, be constructed to ensure privacy, and meet related sanitation requirements. Toilet paper must be provided in a suitable holder in each toilet unit.

HANDWASHING FACILITIES — For every 20 workers or fraction thereof, employers must provide one handwashing facility, equipped with an adequate supply of potable water, soap or other suitable cleansing agent, and single-use towels. A sign must be posted to indicate that the water is for handwashing only.

LOCATION OF FACILITIES — In general, toilet and handwashing equipment must be stationed within a 5-minute or 1/4-mile walk of the workplace, whichever is shorter. Whenever roads, terrain or other physical conditions prevent compliance with this distance limitation, such facilities should be located at the point of vehicular access closest to the workers. Toilet and handwashing facilities must be in close proximity to each other.

EXCEPTION TO LOCATION REQUIREMENT — Instead of providing the facilities on site, an employer may provide transportation

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to toilet and handwashing facilities if (1) the workers perform field work for a period of less than 2 hours, including time to and from work, and (2) there are fewer than 5 workers engaged in hand-labor operations at the site on that day.

RESPONSIBILITY FOR MAINTENANCE — The employer is responsible for servicing and maintaining these facilities. This responsibility includes, among others, (1) cleaning and refilling the drinking water containers, (2) keeping the toilet facilities clean, sanitary and operational, (3) providing toilet paper, and (4) properly disposing of the contents of any chemical toilets used.

REASONABLE USE — The employer must notify each worker of the location of the sanitation and water facilities, and must allow each worker reasonable opportunities during the workday to use them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000)*. Cal/OSHA is responsible for investigating complaints of violations of the California Occupational Safety and Health Act, and for enforcing penalties against employers found in violation. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118)*. This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Colorado

● DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

STATUTORY CITATION: Colo. Rev. Stat. § 25-1.5-101

RELATED REGULATIONS: 6 Code Colo. Regs. § 1010-11-4.5 and § 1010-11-5.3

GENERAL SUMMARY: Using rulemaking authority under Article 1.5, Part 1 of the state health statutes, the state board of health has established regulations governing the operation of labor camps. Provisions in those regulations require employers of agricultural field and packing shed workers who live in labor camps to provide those workers with certain sanitary facilities on the job.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Potable drinking water must be readily available to both field and shed workers. The water must be clean and sanitary, and the use of common drinking cups is prohibited.

TOILET AND HANDWASHING FACILITIES — Toilets and handwashing equipment, for use by field and shed workers, must be provided within 1/4 mile from the farthest point of the worksite. There must be at least one toilet and one washing unit for every 25 workers of each sex; if fewer than 10 workers are employed at the site, one toilet and one washing facility may be shared by both sexes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Connecticut

● PUBLIC HEALTH CODE (*SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS*)

STATUTORY CITATION: Conn. Gen. Stat. § 19a-36

RELATED REGULATIONS: Conn. Agencies Regs. §§ 19-13-B53 and 19-13-B54

GENERAL SUMMARY: The state public health laws authorize the Commissioner of Public Health to establish a public health code, to include, among other provisions, field sanitation and safety protections for agricultural workers and migratory farm laborers.

SPECIFIC TERMS AND CONDITIONS: The following standards apply to all agricultural workplaces in the state of Connecticut.

DRINKING WATER — Employers are required to make drinking water readily available to agricultural field and shed workers, in covered containers with sanitary drinking fountains or with individual paper cups. Drinking water must be obtained from a public water supply or from an approved source of ground water. No common drinking cups are allowed.

HANDWASHING FACILITIES — Potable water for handwashing must be available to all field and shed workers.

TOILET FACILITIES — Portable toilets or permanent privies, readily accessible and in adequate numbers, must be provided for the use of agricultural workers. There must be separate, clearly marked facilities for men and women. Each unit must be equipped with an inside-latching door and must be well lighted, ventilated and maintained. Toilet paper must be supplied by the employer.

FIRST AID — Standard first-aid kits must be kept in every shed where work is in progress and must be readily available to shed workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293)*. In response to a complaint or on its own initiative, representatives of the Department are authorized to inspect worksites to determine if sanitation facilities are being provided as required.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Delaware

● STATE HEALTH AND SAFETY LAWS (*FIELD SANITATION*)

STATUTORY CITATION: Del. Code Title 16, §122

RELATED REGULATIONS: 16-4447 Del. Admin. Code §§ 1.0–7.5.2

GENERAL SUMMARY: The state Department of Health and Social Services has statutory authority to promulgate regulations for the protection and promotion of public health. Under that authority, the Department has adopted rules requiring certain agricultural employers to provide sanitation facilities to their employees who are engaged in hand-labor operations in the field.

SPECIFIC TERMS AND CONDITIONS: In addition to obtaining a permit from the state authorizing a field sanitation/hand labor operation, agricultural establishments where 11 or more workers on any given day are performing hand-labor operations in the field for more than 3 consecutive hours must provide the workers with drinking water, toilets, and handwashing facilities, as outlined below. Workers must be allowed reasonable opportunities during the workday to use the facilities.

DRINKING WATER — At locations readily accessible to the workers, there must be a supply of suitably cool, sanitary drinking water, dispensed in single-use drinking cups or from fountains. The employer must furnish no less than 6 quarts of water per worker per day.

TOILET AND HANDWASHING FACILITIES — Except when the day's work period is 3 hours or less (including transportation time to and from the field), one toilet and one handwashing facility (including soap and single-use towels) must be provided for every 20 workers or fraction thereof. Sanitation equipment must be within 1/4 mile of each worker's place of work in the field, but if the terrain prevents compliance with the 1/4-mile distance limit, facilities must be placed at the point nearest the workers where entry by vehicle is possible. Toilets and washing equipment must be kept clean and sanitary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220)*. This agency is responsible for inspecting workplace sanitation facilities, issuing the required permits, and for taking action to enforce compliance with the requirements outlined above. The agency may revoke or refuse to issue a permit if the field sanitation facility is found in violation of the applicable requirements, and employers with serious or repeat violations are subject to fines ranging from \$100 to \$1,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Florida

● PUBLIC HEALTH LAWS (*FIELD SANITATION*)

STATUTORY CITATION: Fla. Stat. § 381.0086(1)

RELATED REGULATIONS: Fla. Admin. Code R. 64E-14.016

GENERAL SUMMARY: Using rulemaking authority under the state public health laws, the state health department has established regulations requiring agricultural employers to provide their workers with sanitation facilities in the field under certain circumstances.

SPECIFIC TERMS AND CONDITIONS

TOILET AND HANDWASHING FACILITIES — Where 5 to 10 farmworkers are performing hand-labor operations in one location at one time, a field sanitation facility consisting of one toilet and one handwashing unit must be provided for their use. The toilet unit and the handwashing unit must be adjacent to one another and located within a 1/4-mile walk from any worker's place of work in the field. Where the terrain makes it impractical to place the sanitation facilities within that distance limit, they must be located at the point of closest vehicular access.

The toilet unit must have screened ventilation openings and self-closing doors that can be locked from the inside. The handwashing unit must be supplied with potable water, along with soap or other cleanser and single-use hand-drying towels. There must also be a waste container nearby for the used towels.

DRINKING WATER — Potable drinking water must be readily available to the workers. The water must be clean, sanitary, suitably cool and in sufficient amounts, taking into account the air temperature, humidity and the nature of the work performed. Unless bottled water is provided or water is dispensed by means of a fountain, the containers must meet prescribed standards of construction and be supplied with single-use cups; the use of common drinking cups is prohibited.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250)*. Representatives of this agency, as well as county health department staff, may conduct inspections of field sanitation facilities at random.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Hawaii

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (*FIELD SANITATION*)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 – 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-208-1

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state agency has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Hawaii's field sanitation standards are comparable to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to provide required sanitation facilities to field workers. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Idaho

● FARM WORKER SANITATION FACILITIES LAW

STATUTORY CITATION: Idaho Code §§ 44-1901 – 44-1905

GENERAL SUMMARY: To preserve sanitation and health, and in the interest of the privacy and dignity of the agricultural labor force, Chapter 19 of the state labor laws requires the provision of toilet facilities in the fields in certain Idaho farming operations.

SPECIFIC TERMS AND CONDITIONS: In any agricultural crop activity in which 8 or more workers are working as a crew, unit or group for a period of 4 or more hours, the farm operator (or, where workers are furnished by a farm labor contractor, the labor contractor) must provide and maintain at least one toilet facility in a clean and sanitary condition for every 40 workers or fraction thereof.

Toilet facilities, which may include portable units, must be of such design as to provide privacy and prevent contamination of crops and nearby water supplies. Toilets must be placed within 1/4 mile of where the workers are working, but where ground terrain or other physical conditions prevent compliance with the 1/4-mile distance limitation, toilet facilities must be located at the point of vehicular access closest to the workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. A farm operator or farm labor contractor who willfully or negligently violates the sanitation requirement is subject to a fine of not more than \$300 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Illinois

● FIELD SANITATION ACT

STATUTORY CITATION: 210 Ill. Comp. Stat. §§ 105/1 – 105/13

RELATED REGULATIONS: Ill. Admin. Code Title 77, Part 910

GENERAL SUMMARY: The Field Sanitation Act requires farm operators to provide toilets, handwashing facilities and drinking water for workers employed in certain food crop growing or harvesting operations.

SPECIFIC TERMS AND CONDITIONS: Every farming operation in which 10 or more workers are employed in planting, cultivating or harvesting food or nursery products, is required to provide toilets, handwashing facilities and drinking water at each such job site. All such facilities must be readily accessible to the workers, in no case farther than 1/4 mile from any worker. It is illegal for anyone to deny workers the use of the required toilet, handwashing and drinking facilities.

TOILET FACILITIES — There must be at least one toilet for every 35 workers or fraction thereof. Each facility must be designed to provide privacy and allow proper ventilation, and must be maintained in clean and sanitary condition. Each unit must be supplied with toilet paper.

HANDWASHING FACILITIES — Handwashing facilities, in a ratio of at least one unit for every 35 workers, must include an adequate supply of potable water, soap, and disposable towels or equivalent means of drying.

DRINKING WATER — Potable drinking water, in sufficient quantities for all workers throughout the workday, must be provided in covered containers equipped with drinking-fountain attachments or stocked with individual sanitary drinking cups.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830)*. Upon receipt of a complaint or reported violation of the Act or the associated regulations, the Department is obligated to inspect the farm operation involved; the Act further requires the Department to conduct random inspections. In both cases, the agency has explicit authority to enter private and public property to enforce the field sanitation provisions. A written notice of any violation will be provided to the farm operator after inspection. A violation is punishable as a petty offense, carrying a minimum fine of \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Any worker aggrieved by a violation of these provisions is entitled to take direct civil action against the employer, by filing suit in state circuit court for injunctive relief.

Maine

● FARM WORKER OCCUPATIONAL SAFETY AND HEALTH LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 580 – 581

RELATED REGULATIONS: 01 001 Me. Code R. Ch. 365

GENERAL SUMMARY: Chapter 6, Subchapter 2 of the state labor laws authorizes the state agriculture commissioner to adopt and enforce occupational safety and health standards that will (1) protect workers employed in agricultural labor from hazards to their safety and health, and (2) maintain working conditions reasonably free from such safety and health hazards.

SPECIFIC TERMS AND CONDITIONS

Using the statutory authority referred to above, the agriculture commissioner has adopted field sanitation standards, summarized below, which are applicable only to agricultural establishments where more than 10 workers are employed on any given day in hand-labor operations in blueberry fields.

DRINKING WATER — Employers subject to the field sanitation regulations must provide suitably cool, sanitary drinking water to their workers in the field, at locations reasonably accessible to all the workers. There must be no less than one gallon of water for every worker on the job each day. Water must be dispensed from a fountain or in single-use disposable cups.

TOILET AND HANDWASHING FACILITIES — Employers must provide at least one toilet and one handwashing facility for every 30 workers, or fraction thereof. These facilities, or transportation to such facilities, must be located within 1/4 mile of each worker's place of work in the field. Employers are required to inform the workers regarding the location of the facilities, as well as the availability of any transportation to and from that location. It is the employer's responsibility to furnish toilet paper, soap and single-use towels (or allowable equivalent supplies).

Workers must be permitted reasonable opportunities during the workday to use the sanitation facilities described above. It is illegal for an employer to charge a worker any fee for the water, equipment or transportation required under these regulations, or to deduct any amount from a worker's wages or hours in connection with the use of required sanitation facilities.

The toilet and handwashing facility requirements **do not apply** to workers engaged in hand-labor operations for 3 hours or less on any given day.

SPECIAL NOTES OR ADVISORIES

FLEXIBILITY OF RULES — Agency rules permit employers to provide potable water, toilets, or handwashing facilities in lesser quantities or in differing locations, provided that comparable protection is achieved.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Quality Assurance and Regulations, Bureau of Agriculture, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-3841).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Maryland

● MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-101 – 5-1103

RELATED REGULATIONS: Md. Code Regs. 09.12.36

GENERAL SUMMARY: The Maryland Occupational Safety and Health Act authorizes the development and implementation of specific safety and health standards for the prevention of conditions detrimental to the well-being of the workers in any occupation or workplace found to require such protection.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor commissioner has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Maryland's field sanitation standards are very similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*), but, among other differences, the Maryland regulations permit the normal ratio of one toilet facility for every 20 workers to be reduced to one for every 30 when toilets are serviced frequently.

Also, while federal standards do not require employers to provide drinking water, toilets or handwashing facilities where fewer than 11 workers are employed on any given day, all farm employers in Maryland must furnish drinking water to their workers, regardless of the number of employees; the toilet and handwashing requirements, however, apply only to operations with 11 or more workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499)*. Any violation of the Act or the corresponding rules is grounds for assessment of an administrative fine by the Division. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Massachusetts

● PUBLIC HEALTH LAWS (*FIELD SANITATION*)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111, § 127A

RELATED REGULATIONS: 105 Mass. Code Regs. 420.000

GENERAL SUMMARY: Chapter 111 of the state statutes includes a provision authorizing the adoption of regulations governing the health and sanitation of farm labor camps, defined in short as any building, vehicle or other structure which contains sleeping facilities provided in connection with farm employment, and which is occupied or intended for occupancy by 2 or more farmworkers or members of their families.

Among other rules incorporated into the state sanitary code by the health department to protect farmworkers living in employer-provided housing, the farm labor camp standards require camp operators to provide drinking water and toilet facilities to camp occupants while they are on the job.

SPECIFIC TERMS AND CONDITIONS

WATER FOR SHED AND FIELD WORKERS — Where running water from an approved source is not available, operators of farm labor camps (as defined above) are required to make drinking water readily available to both shed and field workers. Water must be kept in covered containers which have been disinfected and maintained in clean and sanitary condition.

TOILET FACILITIES — When farm activities require workers to be more than 750 feet from the main toilet facilities at the camp and transportation to the camp is not immediately available, the camp operator must provide toilets within 750 feet of the work area. There must be at least one such unit for every 100 workers, with separate facilities for each sex. The camp operator is responsible for maintaining a sufficient supply of toilet paper, and for keeping the facilities clean, sanitary and in good repair.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757)*. The Department may respond to any complaint regarding violations of the state sanitary code, including the field sanitation provisions in the farm labor camp rules. The agency may petition the superior court to restrain and enjoin continued non-compliance. Violators are subject to a criminal fine of up to \$500 per day.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The state sanitation code, including the field sanitation provisions, may be enforced by local boards of health.

Michigan

● MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

STATUTORY CITATION: Mich. Comp. Laws § 408.1014n

RELATED REGULATIONS: Mich. Admin. Code R. 408.45501 – 408.45502

GENERAL SUMMARY: In addition to authorizing the state administering agency to adopt safety and health standards with respect to any industry or occupation in the state, the Michigan Occupational Safety and Health Act contains explicit language affirming the right of farmworkers to potable water and to toilet and handwashing facilities in the field.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Agricultural employers must provide potable water to their employees in the field, at no cost to the workers. The standards for the provision of drinking water are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) but apply to all agricultural employers in Michigan.

TOILET AND HANDWASHING FACILITIES — The Act requires agricultural employers with 11 or more workers on a given day to provide toilets and handwashing facilities to the workers in accordance with the federal OSHA field sanitation standard (*U.S. — Health & Safety — Agricultural Field Sanitation*). Employers with fewer than 11 workers must either provide their field workers with comparable facilities themselves, or make such facilities available to them.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777)*. Representatives of MIOSHA may enter any workplace in the state to inspect conditions, equipment and materials, and to question the employer and workers regarding occupational health issues, including field sanitation. In investigating a complaint or suspected violation, the agency may compel testimony by witnesses and the production of evidence. Employers found to have violated the Act or a specific occupational safety rule will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Nevada

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

STATUTORY CITATION: Nev. Rev. Stat. §§ 618.005 – 618.990

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: The Nevada Occupational Safety and Health Act confers broad authority on the state administering agency to develop, implement and enforce occupational safety and health standards applicable to all classes of employment in the state, including agriculture.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*). Nevada enforces these standards only on farm operations that employ more than 10 workers on any given day in hand-labor operations in the field, or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020)*. Any worker or worker representative who believes a violation of the field sanitation provisions has occurred may request an investigation by notifying NVOSHA. If an inspection confirms failure to provide required sanitation facilities, the agency may issue a citation or notice to the employer involved. A final order for compliance is enforceable in civil court. Violators of the Act are subject to administrative fines.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

New Jersey

● DRINKING WATER AND TOILET FACILITIES ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:9A-37 – 34:9A-41

RELATED REGULATIONS: N.J. Admin. Code 12:102

GENERAL SUMMARY: On certain farms where seasonal farmworkers labor in a field that is unreasonably distant from alternative facilities, the farm operator must provide drinking water, toilets and handwashing facilities for the workers. The state labor commissioner is authorized to prescribe specific standards necessary to effectuate the statutory provisions.

SPECIFIC TERMS AND CONDITIONS: The sanitation requirements summarized below, which reflect policy guidelines adopted by the state labor commissioner under the law's rulemaking authority, apply only to agricultural establishments with 10 or fewer field workers.

DRINKING WATER — Except when cool potable water facilities are otherwise available to the workers within 500 feet travel distance of the working area, the farm operator must furnish the workers with an adequate supply of fresh, cool, potable water in the working area. Water must be provided in portable containers capable of being tightly closed and equipped with a tap. Water must be dispensed in single-use drinking cups or by fountains; common drinking cups or dippers are not permitted.

TOILET FACILITIES — Except when toilet facilities are otherwise available within 500 feet travel distance or a 5-minute walk from the working area, the farm operator must provide clean, adequate toilet facilities in the working area. There must be separate accommodations for male and female employees, in a ratio of one toilet for every 20 workers (or fraction thereof) of each sex. The facilities must be equipped with an adequate supply of toilet paper, and must be maintained in clean, sanitary condition and in good working order. Doors must be lockable from the inside.

HANDWASHING FACILITIES — Except when handwashing facilities are otherwise available to the workers within 500 feet travel distance of the working area and in the vicinity of toilet facilities, there must be adequate handwashing facilities provided for the workers in the working area, in the vicinity of the required toilet facilities. The washing facilities must provide potable water, soap or some other cleansing agent, and individual towels.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004).* Field personnel from this agency may make site inspections, either in response to a worker's complaint or on the agency's own initiative. Whenever a violation is found, the Department may issue a citation against the employer involved and may require corrective action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Apart from the administrative enforcement process outlined above, any seasonal farmworker aggrieved by a violation of the drinking water and toilet facilities provisions is entitled to relief in civil court, using private legal counsel or a public legal service provider.

New Mexico

● OCCUPATIONAL HEALTH AND SAFETY ACT (*FIELD SANITATION*)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 – 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.11

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state Environmental Improvement Board has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. New Mexico's field sanitation standards are essentially the same as those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) but apply to any agricultural establishment where employees are engaged on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* Any worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New York

● GENERAL LABOR LAWS (*DRINKING WATER FOR FARM LABORERS*)

STATUTORY CITATION: N.Y. Labor Law § 212

GENERAL SUMMARY: Article 7 of the state labor laws contains a provision requiring drinking water for farm laborers in the field.

SPECIFIC TERMS AND CONDITIONS: Every farm operator or food processor who employs or uses paid farmworkers or food processing workers must provide the workers with safe drinking water at the employer's expense. Water may be furnished in a portable container, but must be accessible to each site where such workers are on the job. The obligation to provide drinking water rests with the grower or processor, regardless of whether or not the workers are supplied or supervised by a farm labor contractor.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

● GENERAL LABOR LAWS (*FIELD SANITATION FOR FARM LABORERS*)

STATUTORY CITATION: N.Y. Labor Law § 212-D

GENERAL SUMMARY: Article 7 of the state labor laws contains a provision requiring field sanitation facilities for farm hand workers, farm field workers, and farm food processing workers.

SPECIFIC TERMS AND CONDITIONS: Every grower or processor who employs or uses paid farm hand workers, farm field workers or farm food processors must provide or make available to such workers toilet and handwashing facilities, including transportation to such facilities. The toilet and handwashing facilities must be located together, within a 1/4-mile walk of most of the workers (or at the closest point accessible by motor vehicle, if the terrain makes compliance with the 1/4-mile requirement impracticable).

Where 5 or more workers are employed in one location at the same time, at least one toilet and handwashing unit must be provided at the location for every 20 workers or fraction thereof. If there are more than 20 workers in one location at the same time and at least half the workers are women, the toilets must be separated by sex and designated as such with appropriate signs.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Since a violation of these requirements is defined in the statute as a misdemeanor, they may also be enforced in criminal court by local prosecuting attorneys. A first offense is punishable by a fine of from \$500 to \$1,000, up to 30 days' imprisonment, or both.

North Carolina

● OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (*FIELD SANITATION*)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-126 – 95-160

RELATED REGULATIONS: 13 N.C. Admin. Code 07F .0301 – .0302

GENERAL SUMMARY: The Occupational Safety and Health Act of North Carolina requires employers to comply with specific occupational safety and health standards established by the state administering agency pursuant to the Act's broad rulemaking authority.

PROVISIONS APPLICABLE TO AGRICULTURE: The state labor department has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. North Carolina's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) but are applicable to all agricultural establishments without regard to any specific number of employees.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267)*. If there are reasonable grounds to believe an employer has not complied with the field sanitation standards, the Department may issue a citation, setting a reasonable time for corrective action. Repeated or willful violation of the Act, the associated regulations or standards, or a Department order may result in a civil penalty against the employer, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Oregon

● OREGON SAFE EMPLOYMENT ACT (*FIELD SANITATION*)

STATUTORY CITATION: Or. Rev. Stat. § 654.174

RELATED REGULATIONS: Or. Admin. R. 437-004-1110

GENERAL SUMMARY: The Oregon Safe Employment Act contains explicit provisions requiring employers of workers engaged in growing and harvesting food crops to furnish them with drinking water and sanitation facilities in the field, in accordance with administrative regulations adopted by the state consumer and business services director under the law's rulemaking authority.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — A supply of potable water that meets state quality standards must be immediately available to all workers. The water must be suitably cool and dispensed in single-use cups or angle jet fountains. Common-use drinking cups or dippers are not allowed.

TOILET AND HANDWASHING FACILITIES — Employers are required to provide at least one toilet and one handwashing facility for every 20 workers or fraction thereof. The toilet and handwashing facilities must be adjacent to each other, and generally no more than a 5-minute or 1/4-mile unobstructed walk from each worker's place of work.

Toilet units must have adequate ventilation, screens and self-closing doors lockable from the inside. There should be separate facilities for each sex, distinctly marked or labeled as such. A supply of toilet paper, soap and single-use towels sufficient to meet the workers' needs during each shift must be provided by the employer.

All such facilities must be kept in clean and sanitary condition, and must be designed and constructed so as to prevent crop contamination.

POSTING — Every employer who uses field workers in the production of food crops must post a conspicuous notice, in English and any other language spoken by a majority of the workers, summarizing the field sanitation provisions and advising where workers may file sanitation-related complaints.

REASONABLE USE — Employers must notify their field workers of the location of the facilities and allow each worker reasonable opportunities during the workday to use them. Workers must be advised of the importance of re-hydrating, urinating as frequently as necessary, and washing hands after using the toilet and before eating or smoking.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689)*. Either in response to a worker complaint or on the agency's own initiative, agents of Oregon OSHA may enter and inspect any place of employment in the state at which compliance with the Safe Employment Act, including the field sanitation standards, is required. An employer who fails to provide the required facilities may be cited and assessed a civil money penalty of up to \$7,000 for each violation, and up to \$70,000 for willful or repeated violations. A minimum mandatory penalty of \$250 is assessed if there is substantial non-compliance with the standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)*. If, in the course of its normal workplace inspections and investigations, the Bureau becomes aware of a violation of the field sanitation requirements, it must report the matter to Oregon OSHA for enforcement action. This agency is also responsible for enforcing the anti-retaliation provision noted above (*Civil Rights Division, 971-673-0764*).

Pennsylvania

● SEASONAL FARM LABOR ACT (*DRINKING WATER AND TOILETS IN THE FIELD*)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.301 – 1301.308

RELATED REGULATIONS: 7 Pa. Code Ch. 82

GENERAL SUMMARY: Among other requirements, the Seasonal Farm Labor Act directs each employer of seasonal farm labor in Pennsylvania to provide a sufficient supply of cool, potable drinking water in the working area, and sufficient, suitable and separate toilet facilities for men and women within a reasonable distance of the working area. The state agriculture department is authorized to adopt rules, consistent with statutory language, detailing sanitation requirements at agricultural worksites.

The term "seasonal farm labor" in this context generally means any individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — On all premises where seasonal farmworkers are employed, the employer must provide a sufficient supply of cool, potable drinking water at a reasonable distance from the working area. The regulations require at least one drinking fountain, plus 10 gallons of potable water, for each 100 workers or each crew. Containers used to supply water must meet prescribed sanitation standards. The use of common drinking vessels is prohibited.

TOILET FACILITIES — In general, on all premises where seasonal farmworkers are employed, the employer must provide (1) at least one toilet within 1,000 feet of any work area where up to 10 such workers are employed, (2) one toilet within 500 feet of any work area where 11 to 15 workers are employed, or (3) one toilet for every 15 males or fraction thereof, plus one toilet for every 15 females or fraction thereof, within 500 feet of any work area where 16 or more workers are employed. As an alternative in any such case, the employer may offer a written agreement, in the workers' native language, to provide the workers with transportation to a toilet facility at least once during every 4 hours of work time.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315).* Any seasonal farmworker or representative of seasonal workers who has knowledge of a violation of the sanitation provisions of the Act may request an inspection by the Department, which is obligated to honor the request if there are reasonable grounds to believe a violation exists. A copy of the complaint will be furnished to the employer no later than the time of inspection, but the name of the complainant may be withheld at the complainant's request, at least until such time as the Department institutes enforcement proceedings. A person who fails to comply with the Act, or an enforcement order issued by the Department, is subject to civil money penalties, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Puerto Rico

● OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 – 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the labor secretary has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Puerto Rico's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) and apply only to those farm establishments that employ 10 or more employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172)*. Discovery of a violation of the field sanitation standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Tennessee

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (*FIELD SANITATION*)

STATUTORY CITATION: Tenn. Code §§ 50-3-101 – 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-07

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act imposes on employers the responsibility to comply with the specific safety and health standards adopted by the state enforcement agency which apply to their respective places of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the Act's rulemaking authority, the state labor department has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Tennessee's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) and likewise apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Vermont

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*FIELD SANITATION*)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-039

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the labor commissioner has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Vermont's field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) and likewise apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084)*. If inspection or investigation yields evidence of a violation of the field sanitation standards, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The law also prescribes criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Virginia

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*FIELD SANITATION*)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 – 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-180-10

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state safety and health codes board has adopted standards requiring certain agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment. Virginia's field sanitation standards are virtually identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health & Safety — Agricultural Field Sanitation*) and, except for the drinking water requirement, apply only to those farm establishments that employ more than 10 employees on any given day in hand-labor operations in the field. All agricultural employers must provide drinking water to their employees in the fields, regardless of the number of workers.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776)*. If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Washington

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (*FIELD SANITATION AND HEAT EXPOSURE*)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 – 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-307, Parts G and G-1

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers, workers and workplaces in the state, including requirements for sanitation facilities in the field and related measures to protect field workers from heat-related illness.

SPECIFIC TERMS AND CONDITIONS

DRINKING WATER — Without cost to the workers, agricultural employers must ensure that a sufficient quantity of suitably cool drinking water is readily accessible to workers at all times, and the workers must have an opportunity to drink up to one quart of water per hour. The water must meet state or federal public drinking water quality standards and be furnished in sanitary, closable containers. Open containers such as pails or barrels from which water must be poured or dipped are prohibited, as is the use of common drinking cups or dippers.

Employees must be cautioned against drinking water from irrigation ditches, creeks or rivers.

HANDWASHING FACILITIES — Without cost to the workers, agricultural employers must provide one handwashing facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be equipped with a tap, a basin and an adequate supply of potable running water, soap and single-use hand towels. The handwashing facilities must be located near the required toilet facilities, within 1/4 mile of the worksite or at the point of closest vehicular access to the field. The employer must also provide receptacles for sanitary disposal of handwashing waste.

TOILET FACILITIES — Without cost to the workers, agricultural employers must provide one toilet facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be adequately ventilated and appropriately screened, and have self-closing doors that are lockable from the inside. All toilet facilities must be inspected at the start of the workday to assure that they are functional, clean and sanitary; each unit must be supplied with toilet paper. The toilet facilities must be located near the required handwashing facilities, within 1/4 mile of the worksite or at the point of closest vehicular access to the field. Employers and supervisors must allow workers a reasonable time during the work period to use the facilities.

HEAT EXPOSURE — In addition to providing field workers with drinking water as outlined above, agricultural employers are required to address the potential for heat-related illness among workers in the field by including an outdoor heat exposure safety element in their written accident prevention program and associated worker training. Worker training must cover such topics as environmental and personal factors that can contribute to heat-related illness, the symptoms of heat-related illness, the role of clothing and water consumption in preventing heat-related illness, and the importance of reporting signs of illness to supervisors. Supervisors must receive similar training, and supervisors are required to relieve from duty any worker showing signs of heat-related illness, take measures to reduce the worker's body temperature, and monitor the worker to determine whether medical attention is necessary.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233)*. In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations. If inspection or investigation reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain specified offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Wisconsin

● MIGRANT LABOR LAW (*FIELD SANITATION*)

STATUTORY CITATION: Wis. Stat. §§ 103.90 – 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.09

GENERAL SUMMARY: Using the rulemaking authority in Wisconsin's migrant labor law, the state labor department has adopted administrative regulations requiring certain agricultural employers to provide toilet facilities, handwashing facilities and drinking water to their employees, without cost to the workers. The regulations apply to operations where 6 or more migrant workers are engaged in hand labor in the field.

SPECIFIC TERMS AND CONDITIONS

TOILET FACILITIES — Wherever there are 6 or more migrant workers performing hand labor operations, the employer must provide toilet facilities, in the ratio of one toilet for every 20 workers. The facilities must be located within 1/4 mile of the workers or at the closest vehicular access. Each toilet unit must have a door that is lockable from the inside and include an adequate supply of toilet paper.

HANDWASHING FACILITIES — The employer must also provide at least one handwashing facility for every 20 workers, located within 1/4 mile of the workers or at the closest vehicular access.

Exception — If providing handwashing facilities creates a practical difficulty or hardship, the employer may apply to the state enforcement agency for a variance authorizing substitution of pre-packaged towelettes instead, provided the substitution does not compromise the health or safety of the workers.

DRINKING WATER — Potable drinking water must be provided for the workers, at a readily accessible location. The water must be kept cool, in insulated containers that are clean and sanitary. The water must be dispensed in single-serving drinking cups; the use of common cups or dippers is prohibited.

In all cases, workers must be allowed reasonable opportunities during the workday to use the facilities provided.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002)*. A migrant worker who has been denied drinking water or sanitation facilities in the field in violation of these requirements may file a complaint with the Department, which is authorized to investigate the complaint and take action to assure compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.