

● 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.*