

● WAGNER-PEYSER ACT

STATUTORY CITATION: 29 USC §§ 49 – 49I

RELATED REGULATIONS: 20 CFR §§ 654.400 – 654.417

GENERAL SUMMARY: The Wagner-Peyser Act established the nationwide system of state-operated public employment offices. Under this law, the Secretary of Labor is authorized to adopt regulations necessary to assure the proper function of the state workforce agency network, including appropriate recruitment services for employers in need of personnel, and job search and placement services for job-seekers.

PROVISIONS APPLICABLE TO AGRICULTURE: No employer may use the federal-state employment service system (including local public employment offices) to recruit agricultural workers from places outside the area of intended employment unless certain conditions are met relating to employee housing. With respect to any housing the employer is required to provide or intends to provide under an interstate or intrastate job order, state agency recruitment services will be denied unless (1) the employer has signed an assurance of compliance, (2) a pre-occupancy housing inspection has been conducted, and (3) the state agency has determined that the housing meets the applicable federal standards outlined below.

HOUSING CONSTRUCTED AFTER APRIL 3, 1980 — Farm labor housing facilities constructed on or after April 3, 1980 (or for which a construction contract was signed after March 4, 1980) must meet the standards prescribed by the U.S. Occupational Safety and Health Administration for temporary labor camps, summarized in the preceding entry.

HOUSING CONSTRUCTED BEFORE APRIL 3, 1980 — Housing facilities constructed or under construction prior to April 3, 1980 (or for which a construction contract was signed prior to March 4, 1980) must meet either the OSHA temporary labor camp regulations referred to above, or the agricultural worker housing standards prescribed by the U.S. Employment and Training Administration. The ETA standards contain specifications in the following areas:

Housing Site — Sites must be well-drained and sanitary and must provide reasonable recreation space.

Water Supply — The facility must provide an adequate and convenient supply of water that meets state health standards.

Waste Disposal Facilities — There must be facilities for effective disposal of sewage.

Housing Structures — Housing must be structurally sound, in good repair and in sanitary condition. Sleeping areas must provide at least 50 square feet of floor space per occupant in family units and in single-bed dormitories, 40 square feet per occupant in dorms with double bunk beds, or 60 square feet per occupant in combined cooking, eating and sleeping areas. Units must also meet specifications regarding partitions, ceiling heights and window area.

Screening — All outside openings must be equipped with screens.

Heating — Heating devices must be provided if outside temperatures during periods of normal occupancy fall below 68 degrees F. Stoves and combustible-fuel heaters must be vented and comply with other prescribed safety standards.

Electricity and Lighting — All housing sites must be provided with electric service, and units must be equipped with safe and operable light fixtures and outlets.

Toilets — Toilets or privy seats, in the ratio of not less than one for each 15 occupants and located within 200 feet of each living unit, must be provided and must meet other numerical and qualitative standards.

Bathing and Laundry Facilities — Bathing and laundry facilities, supplied with hot and cold water under pressure, must be located within 200 feet of each living unit. Among other requirements, there must be at least one showerhead and one wash basin for every 15 persons.

Cooking and Eating Facilities — Cook stoves or similar equipment, as well as food preparation and storage space, must be furnished, in conformity with detailed criteria.

Garbage Facilities — Each unit must have nearby access to clean, fly-tight containers for the disposal of garbage and other refuse, in a minimum ratio of one such container for every 15 occupants. Provision must be made for collection at least twice a week.

Insect and Rodent Control — Housing and facilities must be free of insects, rodents and other pests.

Sleeping Facilities — Beds, cots or bunks, together with clean mattresses, must be provided for all occupants.

Safety and First Aid — All structures must be maintained in accordance with state or local fire and safety laws, must provide practical means of escape, and must be equipped with fire extinguishing and first-aid equipment. No flammable liquids or materials other than those for immediate household use may be stored in or around living areas, and agricultural pesticides and toxic chemicals may not be stored in proximity to the housing units.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3046).* ETA monitors the operation of the federal-state public employment service system and is responsible for assuring that employers who use the system comply with conditions placed on intra- and interstate job orders.

U.S. / Housing / Farm Labor Housing Standards

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — In accordance with a formal written plan submitted annually by each of the 50 states and Puerto Rico, ETA delegates operation and supervision of public employment offices to the respective state agencies. Compliance with the ETA housing standards by employers using the employment service to recruit agricultural workers is the immediate responsibility of the designated state workforce agency. With respect to a housing facility proposed to be used for farmworkers recruited through the employment service, the local workforce office serving the area where the housing is located is responsible for arranging the pre-occupancy inspection required under these provisions. If, on inspection, the housing does not meet the applicable standards outlined above, the local office must immediately remove the employer's job orders from intra- or interstate clearance, and if workers have been recruited against the orders, must attempt to locate and notify the appropriate workers or crew leaders and try to find comparable alternative employment for the workers.