

Chapter 36

FIELD SANITATION AND TEMPORARY LABOR CAMP STANDARDS IN AGRICULTURE UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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Table of Contents

36a OVERVIEW

- 36a00 History.
- 36a01 Purpose.
- 36a02 Geographical scope.
- 36a03 Glossary.

36b STATUTORY AND REGULATORY COVERAGE

- 36b00 Introduction.
- 36b01 Statutory coverage.
- 36b02 Employment test and joint employment.

36c (RESERVED)

36d FIELD SANITATION STANDARDS

- 36d00 Generally.
- 36d01 Definition of “agricultural employer” and “agricultural establishment.”
- 36d02 Regulatory coverage.
- 36d03 Requirement to furnish at no cost to employees.
- 36d04 Potable drinking water.
- 36d05 Toilets and handwashing facilities.
- 36d06 Maintenance.
- 36d07 Disclosure and reasonable use.
- 36d08 Reforestation.
- 36d09 Christmas tree farms.
- 36d10 Pine straw.

36e TEMPORARY LABOR CAMPS IN AGRICULTURE

- 36e00 Generally.
- 36e01 Date of construction.
- 36e02 Housing must be related to employment.
- 36e03 No minimum number of employees required.
- 36e04 Rent charged for housing.
- 36e05 Substantive housing requirements.

36f (RESERVED)

36a OVERVIEW

36a00 History.

- (a) The Occupational Safety and Health Act of 1970 (OSH Act) was enacted to ensure safe and healthy working conditions. The OSH Act is enforced by DOL's Occupational Safety and Health Administration (OSHA) either directly or by individual states through an OSHA-approved State Plan.

References:

29 U.S.C. 651, et seq.

29 U.S.C. 655

29 U.S.C. 657

[29 CFR 1903.3\(a\)](#)

[FOH 36a02](#)

- (b) OSHA issued standards establishing minimum standards for field sanitation and temporary labor camps in agricultural employment settings covered by the OSH Act. A detailed discussion of the field sanitation requirements appears in FOH 36d, and the temporary labor camp requirements appear in FOH 36e.

References:

29 U.S.C. 655

[29 CFR 1928.110](#)

- (c) WHD generally has authority under sections 8, 9, and 10 of the OSH Act to conduct inspections, issue citations, assess penalties, and develop and issue compliance interpretations regarding field sanitation and temporary labor camp standards in the agricultural industry. OSHA retained rulemaking authority for field sanitation and temporary labor camp standards under section 6 of the OSH Act.

References:

29 U.S.C. 655

29 U.S.C. 657–659

[Secretary's Order 5-96](#)

[Secretary's Order 6-96](#)

[Secretary's Order 8-2020](#)

[85 FR 58393 \(Sept. 18, 2020\)](#)

[62 FR 107](#)

36a01 Purpose.

Absent or inadequate sanitation and hygiene are principal factors in transmitting disease. Access to potable water and toilet and handwashing facilities help prevent heat-related illnesses and the transmission of many communicable diseases. WHD is therefore entrusted with ensuring that workers have access to these facilities as part of a safe and healthy working environment.

References:

29 U.S.C. 651

[52 FR 16050 \(May 1, 1987\)](#)

36a02 **Geographical scope.**

- (a) WHD has nationwide authority to enforce the OSH Act’s field sanitation and temporary-labor camp standards, with two exceptions. First, WHD does not have enforcement authority in the 14 states that have retained enforcement authority under an approved State Plan. Second, WHD does not have authority over temporary labor camps where workers are engaged in egg, poultry, or red meat production or in post-harvest processing of agricultural or horticultural commodities. Standards in those camps are enforced by Federal OSHA or states with a State Plan.

Region	States with WHD Enforcement Authority	OSHA-Approved State Plan States
Northeast Region	Connecticut Delaware District of Columbia Maine Massachusetts New Hampshire New Jersey New York Pennsylvania Rhode Island	Maryland Puerto Rico Virginia Vermont
Southeast Region	Alabama Florida Georgia Kentucky Mississippi South Carolina Virgin Islands	North Carolina Tennessee

Region	States with WHD Enforcement Authority	OSHA-Approved State Plan States
Midwest Region	Illinois Indiana Iowa Kansas Minnesota Missouri Nebraska Ohio Wisconsin	Michigan
Southwest Region	Arkansas Colorado Louisiana Montana North Dakota Oklahoma South Dakota Texas Utah Wyoming	New Mexico
Western Region	Alaska Commonwealth of the Northern Mariana Islands Guam American Samoa Idaho	Arizona California Hawaii Nevada Oregon Washington

OSHA-approved state plans for Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands cover only state and local government workers. In these cases, private sector

workers and employees are subject to WHD's authority to enforce the field sanitation and temporary labor camp requirements.

References:

29 U.S.C. 657–659

[Secretary's Order 5-96](#)

[Secretary's Order 8-2020 \(Sept. 18, 2020\)](#)

www.osha.gov/stateplans

- (b) Even in states with State Plans, WHD has authority to enforce the temporary labor camp standards under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and H-2A visa program.

References:

29 U.S.C. 657–659

[29 CFR 1910.142](#)

[Secretary's Order 5-96](#)

www.osha.gov/stateplans

36a03 **Glossary.**

- (a) *Abatement verification* refers to regulations that require a cited employer to certify (and in some instances furnish documents showing) that each cited violation has been abated. WHD does not enforce the abatement verification requirements but will:

- (1) inform employers of the requirements; and
- (2) refer allegations of non-compliance with those requirements to OSHA for further action.

References:

[29 CFR 1903.19](#)

- (b) *Affects commerce*, as used in the OSH Act's definition of "employee" and *affecting commerce*, as used in its definition of "employer," are synonyms. Although not defined in the OSH Act, both terms describe the breadth of activities relative to commerce that govern whether the Act applies. Conceptually, the terms include, but are more expansive than, the FLSA term "engaged in commerce or the production of goods for commerce."

References:

29 U.S.C. 652

29 U.S.C. 651(b)

[29 CFR 1975.3\(a\)](#)

- (c) An *agricultural employer* under the field sanitation standard is a person, corporation, association, or other legal entity that:

- (1) owns or operates an agricultural establishment;

- (2) 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
- (3) recruits and supervises employees or is responsible for the management and condition of an agricultural establishment.

The term is not synonymous with the term as defined in the FLSA or MSPA.

References:

[29 CFR 1928.110\(b\)](#)

- (d) An *agricultural establishment* under the field sanitation standard 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.

References:

[29 CFR 1928.110\(b\)](#)

- (e) A *citation* is the document used to notify an employer that WHD has determined that a violation of the field sanitation or temporary labor camp standards has occurred. A citation must be in writing and specify each violation and the abatement period within which the employer must abate each violation. It is accompanied by a notification of proposed penalties.

References:

29 U.S.C. 658

- (f) *Commerce* means trade, traffic, commerce, transportation, or communication among several states; between a state and any place outside such state or within the District of Columbia or a territory of the United States; or between points in the same state but through a point outside that state.

References:

29 U.S.C. 652(3)

- (g) *Employee* means an employee of an employer who is employed in a business that affects commerce.

References:

29 U.S.C. 652(6)

- (h) *Employer* means a person engaged in a business affecting commerce who has employees. It does not include the federal government or the government of a state or political subdivision of a state.

References:

29 U.S.C. 652(5)

- (i) *Hand-labor operations* are agricultural activities or agricultural operations performed by hand or with hand tools and includes other activities or operations performed in conjunction with hand labor in the field. Hand-cultivation, hand-weeding, hand-planting, and hand-

harvesting of vegetables, nuts, fruits, seedlings, or other crops, including mushrooms, are examples of these operations. So are hand-packing produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed located in the field. The term does not include activities such as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures such as canning facilities or packinghouses.

References:

[29 CFR 1928.110\(b\)](#)

- (j) *Imminent danger* refers to conditions or practices that cause a danger that could reasonably be expected to cause death or serious physical harm either immediately or before the imminence of the danger can be eliminated through usual enforcement procedures.

References:

29 U.S.C. 662(a)

- (k) *Person* means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

References:

29 U.S.C. 652(4)

- (l) A *serious violation* occurs at a place of employment if there is a substantial probability that death or serious physical harm could result from:

- (1) An existing condition or
- (2) One or more practices, means, methods, operations, or processes that have been adopted or are in use.

There is no violation if the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation. WHD analyzes the nature and gravity of a violation when considering whether a penalty for a serious violation is appropriate.

References:

29 U.S.C. 666(k)

36b STATUTORY AND REGULATORY COVERAGE

36b00 Introduction.

Generally, agricultural employees of an agricultural employer are covered by the OSH Act, and OSHA issued several standards to protect the safety and health of agricultural workers. These standards include rules for sanitation facilities in the field. A separate OSHA standard deals with hazards in temporary labor camps. Establishments are subject to WHD's jurisdiction only if they are covered by both the OSH Act and one of these two regulations.

References:

[29 CFR 1928.110](#)

[29 CFR 1910.142](#)

[52 FR 16050](#)

36b01 **Statutory coverage.**

(a) **Definition of employer.**

Under the OSH Act:

- (1) *Employer* means a person engaged in a business affecting commerce who has employees. However, the term does not include state and local governments or federal agencies (other than the United States Postal Service).
- (2) *Person* means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.
- (3) *Employee* means an employee of an employer who is employed in a business of his employer which affects commerce. Whether a worker is an employee depends on what the employer does, not by what the employee does.

References:

[29 CFR 1910.2\(b\)](#)

[52 FR 16095](#)

(b) **Definition of commerce.**

Commerce means trade, traffic, commerce, transportation, or communication among several states (including the District of Columbia and U.S. territories); between a state and any place outside that state; or between points in the same state but through a point outside that state.

References:

29 U.S.C. 651, *et. seq.*

[29 CFR 1910.2\(e\)](#)

(c) **Affects and affecting commerce.**

Conceptually, the terms *affects* and *affecting* commerce include, but are more expansive than, the FLSA term *engaged in commerce or the production of goods for commerce*. OSHA, the Occupational Safety and Health Review Commission (OSHRC), and the courts have consistently interpreted *affects* and *affecting* commerce so as to have the broadest possible application. Under the OSH Act, the commerce element is typically shown when the person sells goods to out-of-state purchasers, uses materials or equipment from outside the state, or buys goods from places outside the state.

References:

[29 CFR 776.1](#)

[29 CFR 1910.2\(c\)](#)

[29 CFR 1910.2\(e\)](#)

(d) **No individual coverage.**

- (1) Nothing in the OSH Act's coverage is equivalent to individual coverage under the FLSA. Unlike the FLSA, the OSH Act applies to employers regardless of their annual dollar volume of business.

- (2) Statutory coverage cannot be presumed: it must be affirmatively established and documented for every case.

References:

[29 CFR 776.1](#)

[29 CFR 1910.5](#)

[29 CFR 1975.3\(a\)](#)

[FOH 36a03](#)

36b02 Employment test and joint employment.

- (a) The primary factor in determining whether a worker is an employee under the OSH Act is the right to control the worker. Other factors include:

- (1) the skill required;
- (2) the source of the instrumentalities and tools;
- (3) the location of the work;
- (4) the duration of the relationship between the parties;
- (5) the extent of the hired party's discretion over when and how long to work;
- (6) the method of payment;
- (7) the hired party's role in hiring and paying assistants;
- (8) whether the work is part of the regular business of the hiring party;
- (9) whether the hiring party is in business;
- (10) provision of employee benefits; and
- (11) the tax treatment of the hired party.

Migrant farm workers paid and supervised by a farm labor contractor have been regarded as employees of the farmer because the latter gave instructions about the picking of the crop, set the wages, and could force the contractor to discipline and fire the workers.

References:

29 U.S.C. 652(5)

29 U.S.C. 651(b)

[29 CFR 1975.3\(a\)](#)

[29 CFR 1904.31](#)

Nationwide Mutual Ins. Co. v. Darden, 503 U.S. 318 (1992)

Griffin and Brand of McAllen, Inc., 6 BNA OSHC 1702 (No. 14801, 1978)

- (b) Under the joint employer doctrine, more than one employer may be held responsible for complying with the OSH Act. To establish a joint employer relationship, there must be evidence that one employer meaningfully affects matters relating to the employment

relationship such as hiring, firing, disciplining, supervising, and directing the other entity's employees.

References:

[52 FR 16050](#)

[52 FR 16086](#)

[OSHA Opinion Letter \(April 25, 1994\)](#)

[IRA Holiday Logging Co., 1 BNA OSHC 1200 \(No. 237\)](#)

36c (RESERVED)

36d FIELD SANITATION STANDARDS

36d00 Generally.

OSHA requires agricultural employers to provide potable drinking water, toilet facilities, and handwashing facilities to covered employees engaged in hand-labor operations. The employers must do so at no cost to the employees and give the employees reasonable opportunities for use.

References:

[29 CFR 1928.110](#)

36d01 Definition of “agricultural employer” and “agricultural establishment.”

- (a) For purposes of the field sanitation standards, an *agricultural employer* is a person, corporation, association, or other legal entity that:
- (1) Owns or operates an agricultural establishment;
 - (2) Contracts with the owner or operator of an agricultural establishment in advance of production to purchase of a crop and exercises substantial control over production; or
 - (3) Recruits and supervises employees or is responsible for the management and condition of an agricultural establishment.

References:

[29 CFR 1928.21\(a\)](#)

[29 CFR 1928.110\(b\)](#)

- (b) Employers for field sanitation standards may include farm labor contractors and harvest companies. Additionally, an advance purchaser of a crop or a substantial part of a crop who exercises substantial control over production is specified to be an employer. DOL will hold those who are best able to assure that adequate potable water and sanitation facilities are provided to agricultural workers in the fields jointly and severally responsible for compliance.

References:

[OSHA Standards Interpretation, Standard Number 1928.110 \(April 25, 1994\)](#)

- (c) An *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.

References:

[29 CFR 1928.21\(a\)](#)

[29 CFR 1928.110\(b\)](#)

36d02 Regulatory coverage.

(a) 11-employee requirement.

- (1) Under OSHA's regulations, employers are subject to the field sanitation standards only if they, in the preceding 12 months, employed 11 or more workers on any given day in hand-labor operations in the field.
- (2) The only employees who count toward the 11-employee requirement are those who fall within the definition of "hand-labor operations." Employees engaged in certain excluded field or field-related activities do not count toward the 11-employee requirement, nor do family members of the employer. Finally, the 11 or more workers may have worked in separate fields for the same agricultural employer, and the number of employees is day-specific (that is, not a collective or cumulative count). The number of employees employed on the date of the investigation does not determine coverage unless that number equals 11 or more workers.

References:

[29 CFR 1928.110\(a\)-\(b\)](#)

[52 FR 16084](#)

[OSHA Memorandum "Interpretation of 29 CFR 1928.110\(a\)" \(February 6, 1989\)](#)

(b) Hand-labor operations.

Hand-labor operations are those agricultural activities or agricultural operations performed by hand or with hand tools. With exception of accessibility to toilet and handwashing facilities the term generally also includes other activities or operations performed in conjunction with hand labor in the field. Activities such as hand-cultivation, hand-weeding, hand-planting, and hand-harvesting of vegetables, nuts, fruits, seedlings, or other crops, 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, are all examples of hand labor operations.

References:

[29 CFR 1928.110\(c\)\(2\)\(iii\)](#)

(c) Machine operators.

Workers who operate machines in conjunction with hand laborers, such as tractor drivers pulling the platform from which the hand-labor occurs, are themselves engaged in hand labor operations. For example, if an employer has a tractor effectively working as part of a crew in a field, the tractor operator is a hand-laborer for the purpose of calculating the number of hand-laborers working in the field.

References:

[29 CFR 1928.110\(b\)](#)

[52 FR 16087](#)

(d) Mushroom farms.

Hand-labor operations in growing mushrooms, whether inside permanent structures or not, are subject to the field sanitation standard.

References:

29 CFR 1928.110(b)

[52 FR 16087](#)

(e) Activities that are not hand labor.

Hand-labor does not include such activities as:

- (1) working in permanent greenhouse structures;
- (2) packing or canning in permanent structures;
- (3) engaging in logging or livestock operations; and
- (4) working on agricultural machinery not in conjunction with hand labor.

References:

[29 CFR 1928.110\(b\)](#)

[52 FR 16087](#)

36d03 Requirement to furnish at no cost to employees.

(a) Generally.

Covered employers must provide field sanitation facilities to covered employees at no cost to the employees.

(b) OSH Act violations.

Employers who charge for field sanitation facilities are subject to citations and penalties under the OSH Act. Employees who are charged for those facilities are entitled to restitution of the amount they were charged.

(c) FLSA violations.

Employers that charge for field sanitation facilities violate the FLSA in workweeks when those charges bring an employee's wages below the FLSA's minimum wage or overtime pay requirements.

(d) Violations of other laws.

Employers that charge for field sanitation facilities may also violate the requirement to pay the required wage to an H-2A worker or a worker in corresponding employment, the requirement to pay wages owed and to disclose all terms and conditions of employment under MSPA, or other laws such as the H-2B program under the Immigration and Nationality Act.

References:

29 U.S.C. 655
29 U.S.C. 8
29 U.S.C. 1801, et seq.
[29 CFR 1928.110\(c\)](#)
FOH 32j08

36d04 **Potable drinking water.**

- (a) Agricultural employers must provide suitably cool, potable drinking water in sufficient amounts to meet the needs of all employees, dispensed in single-use drinking cups or by drinking fountains, and placed in locations readily accessible to all employees. Common drinking cups and dippers do not qualify. The water must be available in amounts needed for satisfying thirst, cooling, waste elimination, and metabolism. The temperature must be low enough to encourage employees to drink and to cool the core body temperature. At least two to three gallons of drinking water must be provided per worker on a hot day. The water temperature should be between 55–60 degrees Fahrenheit to facilitate absorption into the blood and encourage use. Drinking water containers must be constructed of materials that maintain water quality, are covered, and are regularly cleaned.

References:
[29 CFR 1928.110\(c\)\(1\)\(i\)-\(iii\)](#)
[52 FR 16087](#)

- (b) *Potable drinking water* means water that meets the water quality standards for drinking purposes of either (1) the state or local authority having jurisdiction over supplies of drinking water or (2) the U.S. Environmental Protection Agency’s National Primary Drinking Water Regulations.

References:
[40 CFR Part 141](#)
[29 CFR 1928.110\(b\)](#)

- (c) Drinking water must be provided to all covered workers regardless of time in the field, whereas toilets and handwashing facilities must be provided to workers who are in the field 3 hours or more per day, including travel time to and from the field. Drinking water is not provided and readily accessible if it is not available for all hours of hand-labor operations.

References:
[29 CFR 1928.110\(c\)\(2\)\(v\)](#)

36d05 **Toilets and handwashing facilities.**

- (a) **Requirement to provide.**

An employer must provide toilet and handwashing facilities (filled with potable water) within one-quarter mile of the work site. There must be at least one set of facilities for each 20 workers. Toilet and handwashing facilities must be accessibly located and in close proximity to each other. Employers are not required to provide separate toilet facilities for men and women.

References:

[29 CFR 1928.110\(c\)\(2\)\(i\), \(iii\), and \(iv\)](#)

(b) Requirements for toilets.

Toilets must be ventilated to reduce heat and noxious odors inside the facility, be adequately screened, and have self-closing doors that can be closed and latched from the inside. They must be constructed to afford privacy to the user.

References:

[29 CFR 1928.110\(c\)\(2\)\(ii\)](#)

(c) Requirements for handwashing.

The handwashing facilities must include soap, potable water, and single-use towels in amounts to satisfy needs. Pre-moistened towelettes, hand-sanitizers, and waterless hand cleaning systems do not qualify.

References:

[29 CFR 1928.110\(b\)](#)

[52 FR 16091–16092](#)

[OSHA Opinion Letter \(July 20, 2005\)](#)

[OSHA Opinion Letter \(June 5, 1998\)](#)

(d) Accessibility.

- (1) Agricultural employers do not need to provide toilet and handwashing facilities within a quarter-mile walk of where the employees are working if terrain makes it infeasible to do so. In such an instance, the facilities must be located at the point of closest motor-vehicle access.
- (2) Facilities are accessibly located if they can be easily reached without crossing an unbridged stream, a super highway, or any natural or man-made barrier. Some fields, for example, may be located on steep mountain sides, river deltas, or wetlands and the like, into or on which portable facilities cannot be placed. The size of a field, in and of itself, is not a factor in determining whether the terrain exception applies.

References:

[29 CFR 1928.110](#)

[52 FR 16090](#)

(e) Exception for fewer than 3 hours of work.

Agricultural employers do not need to provide toilet and handwashing facilities for employees who perform field work for 3 or fewer consecutive hours, which includes transportation to and from fields. This exception is limited to toilets and handwashing facilities and does not extend to other field sanitation requirements.

References:

[29 CFR 1928.110\(c\)\(2\)\(v\)](#)

[52 FR 16090](#)

36d06 **Maintenance.**

Toilet and handwashing facilities must be maintained in accordance with appropriate public health sanitation practices. The drinking water containers must be constructed of materials that maintain water quality, refilled with potable water daily or as often as necessary to ensure an adequate supply, and kept covered and regularly cleaned.

References:

[29 CFR 1928.110\(c\) \(3\) \(iii\)](#)

36d07 **Disclosure and reasonable use.**

Employers must inform the workers of the location of the facilities, provide reasonable opportunities during the workday to use them, and inform the workers of the importance of good hygienic practices to reduce harmful exposure to heat, communicable diseases, retention of urine, and agrichemical residues.

References:

[29 CFR 1928.110\(c\)\(4\)](#)

36d08 **Reforestation.**

Reforestation activities, though not considered agriculture under the FLSA, are similar to other agricultural field operations because the most common method of performing reforestation activities is by hand-labor operations. They are therefore subject to the field sanitation standards.

References:

[OSHA Memorandum \(July 30, 1990\)](#)

36d09 **Christmas tree farms.**

Christmas tree farms that meet the 11-employee requirement are generally subject to the field sanitation standards. They generally meet the definition of agricultural employer, agricultural establishment, and hand labor operations.

References:

[29 CFR 1928.110\(b\)](#)

[52 FR 16087](#)

36d10 **Pine straw.**

Pine straw is the fresh, undecomposed pine needles that have fallen from pine trees. It is produced commercially and collected for use as a mulch and groundcover. Raking, gathering, baling, and loading pine straw for commercial purposes is usually performed by hand labor in pine stands or on pine plantations, from pine trees being grown for forestry and lumbering operations. Though not considered as such under the FLSA, owners and operators of pine stands or pine plantations are agricultural employers under the OSH Act because those are agricultural establishments under the OSH Act. They are thus subject to the field sanitation standards when they meet the 11-employee requirement. Pine straw workers are generally covered by those standards because their work is generally performed through hand labor.

Workers performing the same work in different fields for the same establishment should be included in the total employee count for determining coverage.

References:

[29 CFR 1928.110\(b\)](#)

[52 FR 16087](#)

[Administrator's Interpretation No. 2012-1 \(December 12, 2012\)](#)

36e TEMPORARY LABOR CAMPS IN AGRICULTURE

36e00 Generally.

- (a) Generally, temporary housing for migrant agricultural workers is subject to standards imposed under MSPA or the H-2A program of the Immigration and Nationality Act, both of which WHD enforces. However, WHD may also apply OSH Act standards to such housing if:
- (1) the violations involve risks to health and safety that warrant the application of the remedies available under the OSH Act; or
 - (2) MSPA coverage is unverifiable, or the provider of the housing can claim an exemption from MSPA; and
 - (3) the housing is in a state where WHD has authority to enforce the OSH Act.
- (b) WHD's authority under the OSH Act to enforce housing standards at temporary labor camps is limited to agricultural establishments where employees are engaged in agricultural employment under the MSPA. This authority applies regardless of the number of employees engaged in agriculture, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed. OSHA retains enforcement authority over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or post-harvest processing of agricultural or horticultural commodities.

References:

29 U.S.C. 1802

26 U.S.C. 3121(g)

[29 CFR 500.20\(e\)](#)

[29 CFR 500.132](#)

[Secretary's Order 5-96](#)

[Secretary's Order 8-2020](#)

36e01 Date of construction.

Employers providing temporary housing to workers must comply with applicable OSHA health and safety standards. WHD enforces these standards under the OSH Act, MSPA, or the H-2A program for housing that was built on or after April 3, 1980. For camps built before April 3, 1980, see OSHA Field Operations Manual, Chapter 12, ¶ II.D.

References:

[29 CFR 1910.142](#)

36e02 Housing must be related to employment.

- (a) Housing is related to employment under the OSH Act if:
- (1) the employer requires employees to live in the housing, and
 - (2) the isolated location of the work or the lack of economically comparable alternative housing makes it a practical necessity to use employer-provided housing.
- (b) Each of the following factors is evidence that the operation of the camp is directly related to the employment of those persons using the housing:
- (1) The housing is provided free or at low cost.
 - (2) The housing is owned, controlled, or provided by the employer.
 - (3) No other alternative housing is reasonably accessible to the employees considering the distance from the alternative housing to the worksite, the absence of transportation from the alternative housing to the worksite, or the cost of the alternative housing.
 - (4) The housing is made available to ensure that the business has an adequate supply of labor.
 - (5) The employees living in the housing are required to work for the employer upon demand.

References:

[OSHA Revised Field Operations Manual, Chapter XII](#)

36e03 No minimum number of employees required.

OSH Act housing standards apply for all covered agricultural employment without regard to the number of employees housed. The 11-employee requirement for field sanitation does not apply to temporary labor camp housing.

References:

29 U.S.C. 652(5)

36e04 Rent charged for housing.

If the MSPA applies, rent charged for housing must meet the MSPA's requirements for fully disclosed deductions. If the FLSA applies, the rent must meet the FLSA's requirement to credit only reasonable costs for facilities provided. In either case, housing must meet all applicable safety and health requirements to be considered a permissible deduction from the worker's wages.

References:

29 U.S.C. 203(m)(1)

[29 CFR 500.75\(b\)\(5\)](#), [\(f\)\(5\)](#)

[29 CFR 500.76\(b\)\(5\)](#)

[29 CFR 531.3](#)

[29 CFR 531.29–531.31](#)
[Field Assistance Bulletin No. 2015-1](#)

36e05 **Substantive housing requirements.**

The substantive OSH Act housing requirements are found at 29 CFR 1910.142.

References:

[29 CFR 1910.142](#)

36f **(RESERVED)**