

**OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

PROGRAM DIRECTIVE

Program Directive A-222
Issued June 22, 1998
Revised December 12, 2018

SUBJECT: Guidelines for Scheduling and Conducting Inspections of Agriculture Labor Housing.

AFFECTED CODES/

DIRECTIVES: OAR [437-004-1120](#), Agricultural Labor Housing and Related Facilities
[PD-219, Complaint Policies and Procedures](#)
[ORS 658.705 to 658.805](#), Farmworker Camps
[ORS 654.005\(8\)](#), Place of Employment

PURPOSE: To establish and implement procedures and guidelines for inspecting agricultural labor housing by Oregon OSHA personnel.

BACKGROUND: This directive was developed to address increased concerns regarding agricultural labor housing conditions in the state and to modify current scheduling and inspection criteria to more effectively identify and eliminate below-standard housing.

ACTION: This directive applies to agricultural labor housing as defined in ORS 654.005, ORS 658.705, and OAR 437-004-1120.

Oregon OSHA will ensure that all compliance officers (COs) conducting agricultural labor housing inspections are provided with this directive and instructed in all agricultural labor housing rules and any other applicable rules, letters of interpretation, memorandums of understanding, and other pertinent directives related to agricultural labor housing prior to conducting housing inspections.

Labor housing and related facilities: Any place or area of land where there are living areas, manufactured or prefabricated structures, or other housing provided by a farmer, farm labor contractor, agricultural employer, or other person in connection with the recruitment of workers on an agricultural establishment. (See OAR 437-004-1120 for applicable registration requirements and exemptions).

A. Training:

Information on agricultural labor housing will be given to COs during their basic training, ongoing training, and as required to ensure an adequate understanding of the rules and encourage consistent enforcement.

B. Scheduling:

The procedures outlined in Division 1 and the Oregon OSHA Field Inspection Reference Manual (FIRM) for scheduling inspections in general industry, agriculture, and construction establishments will not be used in scheduling inspections of agricultural labor housing. Housing operations tend to be seasonal and of short duration, affected by type and location of crops and duration of the major work activity or harvest seasons.

In order to effectively schedule agricultural labor housing for inspection the following guidelines will be used:

1. When Oregon OSHA receives a complaint alleging violations at agricultural labor housing locations, the procedures outlined in Program Directive A-219 (Complaint Policies and Procedures) and those in the FIRM will be followed. If the housing is required to be registered but it is not registered, a comprehensive inspection will be conducted.
2. When Oregon OSHA receives a complaint or referral about agricultural workers being housed at a location that is not registered housing, a comprehensive inspection will be initiated. If upon entering the site the CO finds that the housing is registered or is exempt from registration, they will contact their enforcement manager, or their designee, for instructions prior to continuing with the inspection.
3. When a referral is received, the referral procedures outlined in the FIRM will be followed.
4. Due to the short duration of these operations, every effort will be made to process complaints and referrals concerning alleged violations and notices of unregistered agricultural labor housing as quickly as possible.
5. Oregon OSHA annually produces a scheduling list for agricultural labor housing. The following criteria will be used to produce the list:

- a. The location is currently registered with Oregon OSHA as agricultural labor housing and has not received a comprehensive inspection in the previous 24 months; or
- b. The location is currently registered with Oregon OSHA as agricultural labor housing, and on their most recent comprehensive inspection received citations with violations having a point value totaling five or more. Violations will be assigned the following point values:

Willful	5
Failure-to-Abate	5
Repeat	2.5
Serious	2.5
Other-than-Serious	0.5

- c. The list will be used by the enforcement managers, or their designees, to assign agricultural labor housing for programmed inspections. The enforcement managers, or their designees, will consider the occupancy dates as listed on the camp registration application when determining the timing of and priority for ranking inspections.
6. If during an inspection of an agricultural operation, the CO observes serious safety violations related to agricultural labor housing at the location, a partial inspection will be conducted to address the serious items. If the housing is required to be registered and is not registered, a comprehensive inspection will be conducted. If the CO does not have the knowledge or training to conduct the housing inspection, a referral will be made to the appropriate field office.
 7. All inspections that result in a citation of willful, repeat, or serious violations will be considered for follow-up inspections.

C. Inspections:

All inspections (scheduled, complaint, or referral) will include, but are not limited to, the following actions:

1. Pre-Inspection:

- a. Evaluate the best time for conducting the inspection, taking into consideration the crop or activity season, type of operation, occupancy period if known, and the optimum time of day to ensure the presence of an adequate number of occupants.
- b. Evaluate the need for and availability of an interpreter to be used during interviews with occupants and for communication with the owner or operator of the camp.

Do not rely on the employer, employer representative or an employee as an interpreter.
Only use [Oregon OSHA approved interpreters](#).

- c. Evaluate the need for inspection assistance based on size of facility, past history, timing of the visit, and other applicable considerations.

NOTE: COs will work with their enforcement manager, or designee, to coordinate their work based on a consideration of these factors, including the best use of resources.

2. During Inspection:

- a. Conduct inspections in accordance with all applicable rules and directives.
- b. Document the relationships among the property owner, camp operator and the occupants related to employment and occupancy of the housing.
- c. Because of the seasonal and transitory nature of agricultural work, the CO may arrive on site and find the housing is not currently occupied. In these circumstances, if the CO can substantiate exposure and employer knowledge by asking the same questions asked on any other type of inspection, the CO should continue with the inspection. If the CO is not able to substantiate these elements, but still has concerns about hazards identified, the CO should continue to document the hazards and consider writing a hazard letter.

- d. Collect information necessary to make pertinent referrals within Oregon OSHA or to other agencies. (For example, documentation of pesticide spray records for possible referral to Oregon OSHA's pesticide emphasis program; identification of concerns about public or private water systems for potential referral to the system's regulating agency - as listed on the OHA-DWS website; or, information about potential deficiencies in the requirements as listed in *Attachment 1* to PD A-222 for potential referral to BOLI/WHD.)
- e. Conduct interviews with occupants, using an interpreter if necessary.
- f. In housing sites with a large number of separate sleeping places, inspect a representative number of each type of sleeping place to assess the condition of the camp.
- g. Use the [Labor Housing Inspection Checklist](#) and provide a copy of the completed checklist to the employer/ housing operator.

NOTE: COs will work with their manager, or designee, to determine appropriate actions in all of the above situations.

3. Post-Inspection:

- a. Complete paperwork in accordance with all applicable rules and directives.
- b. Inspections conducted based on discovery during an inspection of an agriculture operation will be recorded as either "programmed related" or "unprogrammed related" as appropriate.
- c. All agricultural labor housing inspections will be identified in OTIS by checking the checkbox for "Migrant Camp" on the visit data tab and by entering "S-06 Fixed" and "S-12 Employer Rep Name" in the Optional information under the Related/Optional tab.
- d. Referrals:

- i. Oregon Bureau of Labor and Industry (BOLI) Wage and Hour Division (WHD). Enforcement managers or their designees, will provide referrals to BOLI/ WHD when deficiencies in the BOLI rule requirements are observed. See *Attachment 1* to this PD for a list of potential WHD-related deficiencies.

BOLI Contacts:

- WHD Compliance manager
(503) 373-7816
- Farm Labor Unit (FLU)
Fax # (503) 373-7636
- [Memo of Understanding with BOLI/ WHD](#)

- ii. Oregon Department of Agriculture (ODA) enforcement managers or their designees will provide referrals to the ODA Pesticide Division concerning potential deficiencies in requirements for the certification and licensing of pesticide applicators or the distribution and use of pesticides. Oregon OSHA may coordinate enforcement actions on Worker Protection Standard violations with ODA.

ODA Contacts:

- Lead Pesticide Investigator (Mike Odenthal) 503-986-4655
- Pesticide program office 503-986-4635 pestx@oda.state.or.us
- [Memo of understanding with Oregon OSHA](#)

- iii. Oregon Housing and Community Services (OHCS) provides Oregon OSHA with their list of Farm Worker Housing Tax Credit users. Oregon OSHA reports to Department of Revenue (DOR) about deficiencies in farm worker housing identified during inspections while the housing providers are using the Tax Credits.)

OHCS and DOR Contacts:

- OHCS Multifamily Housing Section 503-986-6757
- DOR Business and Personal Tax Section 503-945-8890
- [Memo of Understanding between Oregon OSHA, OHCS, and DOR](#)

- iv. Oregon Employment Department (OED) coordinates with Oregon OSHA to provide customer services related to H2A Agricultural Labor Housing.

OED Contact:

- Dora Herrera, Foreign Labor Certification Coordinator 971-301-3472
- [Memo of Understanding between OED and Oregon OSHA.](#)

- v. Reports about potential water quality problems can be made to the regulating agency for the system identified on the <https://yourwater.oregon.gov/> website or to Oregon Health Authority's Drinking Water Services (OHA/DWS) at 971-673-0405.

D. Housing Closure

ORS 658.790(1) states that when agricultural labor housing is ordered vacated by any government agency authorized to enforce building, health, or safety standards, because the housing is not habitable, the housing operator will provide lodging without charge that meets Oregon OSHA standards for seven days or until the housing is made habitable, whichever is less. See OAR 437-004-1120 (24).

When a CO believes that housing should be closed because it is not habitable they must consult with an enforcement manager, or their designee, to receive approval to close the housing.

When a CO closes housing because it is not habitable they will post a "Housing Closure Notice" (Attachment 2) at the site and issue an "Order to Provide Lodging" (Attachment 3) to the housing operator. Posting of "Housing Closure Notice" will be reported to the Central office using the same procedures as for reporting a "Red Warning Notice."

EVALUATION: The agricultural labor housing program directive will be evaluated annually to determine if the elements of effective, efficient, and consistent enforcement inspections are being met, and if not, that those elements are identified and measures taken to correct deficiencies.

EFFECTIVE DATE: This directive is effective immediately and will remain in effect until canceled or superseded.

History: Issued 6-22-1998 Revised 3-31-2004, 4-18-2006, 5-18-2007, 9-27-2007, 9-14-2009, 9-21-2009, 5-15-2013 and 12-12-2018

Attachment 1 to PD A-222 REFERRAL CHECKLIST

BUREAU OF LABOR AND INDUSTRIES (BOLI) Wage and Hour Division

Date: _____

Name of OSHA Person making referral: _____

Contact #: _____

Name of Employer: _____

Business address: _____

Location of affected worker(s): Field Camp Other (Specify) _____

Name of Camp (if applicable): _____

Address: _____

POTENTIAL VIOLATIONS NOTED

(Check all that apply)

- Minimum wage or other pay violation(s) (unlawful deductions, failure to receive scheduled paycheck(s), etc.)
- Child labor (underage minor(s); minors operating farm-machinery; other hazardous employment)
- Unlicensed farm labor contractor
- Agricultural minimum wage poster (yellow) not posted
- Access not provided to a working telephone for emergency use. **NOTE:** Must be provided within 1/10th of a mile (~500 ft.) of the housing and available at any time.
- Reasonable access not provided to a working telephone for private use. **NOTE:** must be provided within a two-mile radius of the housing by road or footpath.
- Miscellaneous deficiencies in working conditions

NOTES/Comments: _____

FAX to BOLI Farm Labor Unit (503) 373-7636

Attachment 2

**CAMP CLOSURE NOTICE
CAMP NOT HABITABLE
FURTHER OCCUPANCY PROHIBITED**

Camp location: _____ _____
Is not habitable because: _____ _____ _____ _____

**CAMPAMENTO INHABITABLE
OCUPACION DE ESTE EDIFICIO ES
PROHIBITED**

Camp operator: _____
Date posted: _____ Time: _____
Posted by: _____ Effective date: _____
For authorization to have this notice removed, you must call: _____

State of Oregon Department of Consumer and Business Services
Oregon Occupational Safety and Health Division
350 Winter St. NE, Salem, OR 97301-3882

Pursuant to ORS 658.790 the camp operator must provide lodging without charge that meets the health and safety standards of the Department of Consumer and Business Services, for seven (7) days or until the camp is made habitable, whichever is less.

Conforme al estatuto ORS 658.790... el operador del campamento debe proveer hospedaje sin costo, que cumple con los requerimientos de salud y seguridad del Departamento de Servicios para Consumidores y Negocios, por siete (7) días o hasta que el campamento se haga habitable, cual sea menor.



**State of Oregon
Department of Consumer and Business Services
Oregon Occupational Safety and Health Division**

350 Winter St. NE
Salem, OR 97301-3882

Order to provide lodging

To:

On _____ an inspection of your Agriculture and Reforestation Labor Housing located at _____ resulted in the housing being ordered vacated because it is not habitable.

In accordance with ORS 658.790(1), you are ordered to provide lodging, without charge to the occupants, that meets the health and safety standards of the Department of Consumer and Business Services, for seven (7) days or until the camp is made habitable, whichever is less.

Conforme al estatuto ORS 658.790(1), se le ordena proveer hospedaje sin costo, que cumple con los requerimientos de salud y seguridad del Departamento de Servicios para Consumidores y Negocios, por siete (7) días o hasta que el campamento se haga habitable, cual sea menor.

This order is effective _____ hours after it is served.

It is so ordered.

Administrator

Date

Compliance officer

Received by

Date issued

Date

Title