

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Sections 122(3) a, b, c, e, g and j
(16 Del.C. §§122(3) a, b, c, e, g and j)
16 DE Admin. Code 4447

PROPOSED

PUBLIC NOTICE

4447 Regulations Governing the Sanitation of Migratory Agricultural Labor Housing Camps and Field Sanitation (Hand Labor)

The Health Systems Protection Section, under the Division of Public Health, Department of Health and Social Services (DHSS), is proposing revisions to the State of Delaware Regulations Governing the Sanitation of Migratory Agricultural Labor Housing Camps and Field Sanitation/Hand Labor Operations. Due to the extensive number of amendments the Department has concluded that the current regulations should be repealed and replaced in their entirety with the proposed regulations being published. On August 1, 2011, the Division plans to publish as proposed the amended regulations and hold them out for public comment per Delaware law.

Copies of the proposed regulations are available for review in the August 1, 2011 edition of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Office of Health Systems Protection at (302) 744-4842.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Deborah Harvey by Wednesday, August 31, 2011 at:

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4447 Regulations Governing the Sanitation of Migratory Agricultural Labor Housing Camps and Field Sanitation (Hand Labor) Operations

Preamble

~~These Regulations as amended are approved by the State Board of Health on February 28, 1986, pursuant to the authority invested by Del.C. §122(3)a, b, c, e, g and j. These Regulations, as amended, provide a system of inspection of such facilities and establish procedures for their enforcement.~~

~~These Regulations, as amended, supersede regulations previously adopted by the State Board of Health and have an effective date of March 15, 1986.~~

Introduction

~~There exist, and may exist in the future, facilities for the housing of migrant agricultural workers, which by reason of the structure, equipment, sanitation, maintenance, use or occupancy, affect or are likely to affect, adversely, the public health (including the physical, mental, and social well-being of persons and families), safety and general welfare.~~

~~The absence or inadequacy of basic sanitation and hygiene has long been recognized by medical science as a principle factor in the transmission of bacterial, viral and parasitic diseases. Inadequate water supply and human waste removal have produced critical health problems for hundreds of years. The provisions for potable drinking water, the proper disposal of human wastes, and the use of personal and public hygienic practices are known to prevent the transmission of these communicable diseases.~~

1.0 Purpose

- 1.1 It is hereby declared that the purpose of this part is to protect, preserve and promote the physical and mental health and social well-being of the people; to minimize the incidence of communicable disease; to regulate publicly and privately owned migratory agricultural labor camps or migratory agricultural labor housing and field

sanitation for the purpose of maintaining adequate sanitation and public health; and to protect the safety of migrant agricultural workers and the people; and to promote the general welfare of agricultural workers and their families by this Regulation.

1.2 To prevent the existence of adverse conditions, and to achieve and maintain such levels of environmental quality that will protect and promote public health, safety and the general welfare, establishment and enforcement of such standards are required.

1.3 These Regulations do not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to any migrant agricultural worker of the same character and on the same or comparable terms and conditions as provided to the general public. Migratory agricultural labor housing shall not be brought within this exception simply by offering lodging to the general public. If the majority of the people living in the housing are migrant agricultural workers, then the housing shall be considered as migratory agricultural labor housing or camps.

1.4 Application and Scope

1.4.1 The requirements of this part shall apply to the construction, alteration, addition, establishment, maintenance and/or operation of all migratory agricultural labor housing or camps and field sanitation (hand labor) operations.

2.0 General Provisions

2.1 Definitions

For the purposes of these Regulations:

Agricultural employer shall mean any person, corporation, agricultural establishment or other legal entity that owns or operates an agricultural establishment, or on whose premises or in whose interest an agricultural establishment is operated, and any person, corporation, association or other legal entity who is responsible for the management and condition of an agricultural establishment, or who acts directly or indirectly in the interest of an employer in relation to any employee.

Agricultural establishment shall mean a business operation that uses paid employees in the production or handling of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

Field sanitation (hand labor) shall apply to any agricultural establishment where eleven (11) or more employees are engaged on any given day in hand labor operations in the field for more than 3 consecutive hours.

Hand labor operations shall mean agricultural activities or operations performed by hand or with hand tools. Hand labor does not include such activities as logging operations, care or feeding of livestock, or hand labor operations in permanent structures, e.g., canning facilities or packing houses.

Handler shall mean any person (except a common or contract carrier of produce owned by another person) who handles produce, including a producer who handles produce of his own production.

Handwashing facility shall mean a facility providing a basin, container or outlet with an adequate supply of potable water, soap and single-use towels. Moist towelettes cannot be substituted for soap and water.

Imminent Health Hazard shall mean something that is an imminent hazard to the health of the migrant agricultural worker or the family. Such an imminent health hazard shall include, but is not limited to, any one of the following:

- an ongoing outbreak of an infectious, pathogenic or toxic agent capable of being transmitted; or
- the absence of potable water (supplied under pressure) in a quantity capable of meeting the needs of the facility; or
- the absence of adequate toilet facilities; or
- a backup of sewage into the facility or into equipment containing food or utensils; or
- an infestation of vermin to the extent that food and food contact surfaces cannot be protected from contamination.
- the lack of equipment capable of maintaining the product temperature of all potentially hazardous foods within the camp.

Migratory Agricultural Labor Housing and Camps shall mean one or more buildings, structures, trailers, or mobile homes, together with the tract of land pertaining thereto, established, operated or maintained, or used as living quarters for five (5) or more migrant agricultural workers. No tents shall be accepted as living quarters. For the purposes of this Regulation, such housing shall be referred to as "camps."

Migratory agricultural labor housing or camp operator shall mean the person who has been granted a permit to operate a migratory agricultural labor camp or other person or persons who arrange housing or

~~provides housing for migratory agricultural workers. For the purpose of this Regulation, these shall be referred to as "camp operators."~~

~~**Migrant agricultural worker** shall mean an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.~~

~~**Person** shall mean corporations, companies, associations, firms, partnerships, societies, as well as individuals.~~

~~**Pit Privy** shall mean a device for the disposal of human excreta in a pit in the earth. The pit is covered by a structure affording privacy and shelter and containing a covered seat with an opening into the pit, be vented and fly tight.~~

~~**Potable water** shall mean water that meets the standards for drinking purposes by the Delaware Division of Public Health.~~

~~**Regulatory Authority** shall mean the State Board of Health or anyone authorized by the Board as its designated representative, in conformance with 16 ~~Del.C.~~ §104.~~

~~**Shelter** shall mean any building, structure, trailer or mobile home of one or more rooms used for sleeping or living quarters.~~

~~**Toilet facility** shall mean a facility designed for the purposes of both defecation and urination, including biological or chemical toilets, combustion toilets, or sanitary pit privies, which are supplied with toilet paper adequate to employee needs. Toilet facilities may be either fixed or portable.~~

3.0 Preoperational Requirements

3.1 General

~~No person shall establish, promote, conduct, advertise or maintain a camp or conduct field sanitation operations without a permit issued by the Division of Public Health. No camp shall be established until legible and detailed plans (in duplicate) have been submitted to the Bureau of Environmental Health, Division of Public Health, Dover, and have been approved in writing. If the majority of the people living in the housing are migrant agricultural workers, then the housing shall be considered as migratory agricultural labor housing or camp. A camp as defined in this Regulation shall advertise and operate only as the type of camp for which a permit has been issued.~~

3.2 Classification of Camp and Field (Hand labor) Operational Permits

~~3.2.1 Annual Permit. May be issued from date of satisfactory compliance to the end of the calendar year, when and if the Division of Public Health determines that the migratory agricultural labor housing camp or field sanitation (hand labor) operation is in compliance with this Regulation.~~

~~3.2.2 Provisional Permits issued to operate a camp or field sanitation operation with defined conditions may be issued when and if the Division of Public Health determines that no health hazards are present, and the owner or operator demonstrates proof of intention to correct, within a specified period of time, those items which do not meet permit requirements. A written statement delineating changes or corrections to be made and completion dates must be presented before a provisional permit shall be issued. A provisional permit shall be issued for a 30-day period, with possible extension to a maximum of 60 days and shall be non-renewable after 60 days. Provisional permits shall be replaced with an annual permit when it has been determined by inspection that the camp or field sanitation (hand labor) operations is in compliance with these Regulations.~~

~~3.2.3 There are a total of four permits which may be issued:~~

- ~~• Annual Camp Permit~~
- ~~• Provisional Camp Permit~~
- ~~• Annual Field Sanitation (hand labor) Permit~~
- ~~• Provisional Field Sanitation (hand labor) Permit~~

3.3 Issuance of Permits

~~3.3.1 Any person desiring to operate a camp or field operations shall make written application for a permit on forms provided by the Division of Public Health. Such application shall include the name and address of the owner, the location and type of the proposed camp or field sanitation (hand labor) operations and the signature of each applicant. The application shall be made at least thirty (30) days prior to the proposed date of arrival of the migrant agricultural workers.~~

~~3.3.2 Prior to approval of an application for a permit, the Regulatory Authority shall inspect the proposed camp or field sanitation (hand labor) operations to determine compliance with the requirements of these Regulations.~~

3.3.3 The Regulatory Authority shall issue a permit to the applicant if its inspection reveals that the proposed camp or field sanitation (hand labor) operations complies with the requirements of these Regulations.

3.3.4 Such permit shall be renewed annually and shall not be transferable.

3.4 Submission of Plans

3.4.1 Sanitary Facilities for Camps and Modifications of Existing Camps

Duplicate copies of plans and specifications for the construction, re-construction, or extensive alteration of any plumbing system, water supply, sewage system, shall be submitted to the office of Institutional and General Sanitation, Division of Public Health for review at least 60 days prior to the initiation of construction and shall contain at least the following information:

- 3.4.1.1 name and address of owner or operator;
- 3.4.1.2 location, use, and floor plans of all proposed or existing buildings;
- 3.4.1.3 location of all proposed or existing water supplies and sewage system;
- 3.4.1.4 source and method for protecting the water supply;
- 3.4.1.5 location of ventilation in camp and toilet area;
- 3.4.1.6 location and number of toilet, handwashing, shower and laundry facilities;
- 3.4.1.7 plumbing is to be installed in accordance with the State Plumbing Code; and
- 3.4.1.8 location of lighting in camp and toilet area.

3.5 Post construction Inspection

3.5.1 Whenever plans and specifications are required by Section 3.4 of these Regulations, the Regulatory Authority shall inspect the camp prior to the start of operation, to determine compliance with the approved plans and specifications and with the requirements of these Regulations. The post-construction inspection report shall indicate compliance with the plans and specifications as approved by the Regulatory Authority. All construction, conversions or repairs must be completed at least five (5) days prior to the arrival of the workers and their dependents.

3.6 Pre-operation Inspection

The Regulatory Authority shall inspect a camp prior to the start of operations to determine compliance with the requirements of these Regulations, as follows:

3.6.1 Following completion of a satisfactory post construction inspection, a newly constructed, converted, or physically altered facility, or reopening of a facility that has been closed for thirty (30) days, shall be in a minimum of 90% compliance with these Regulations in order to be approved for an annual operating permit.

3.6.2 Change of ownership, management firm, or lessee of an existing operating facility:

- 3.6.2.1 A new operating permit is required.
- 3.6.2.2 The facility shall be in a minimum of 90% compliance with these Regulations in order to be approved for an annual operating permit.
- 3.6.2.3 The new owner, management firm, or lessee may be granted a provisional permit to operate in accordance with Section 3.2.2, pending completion of the requirements for an annual operating permit.
- 3.6.2.4 The new owner, management firm, or lessee may request a variance from certain requirements in accordance with Section 6.12 of these Regulations.

4.0 General Sanitation—Camps

4.1 Site

4.1.1 All sites used for labor camps shall be located upon well-drained ground. They shall not be subject to periodic flooding, located in swamps or marshes or subject to drainage from barnyards, outdoor toilets or other sources of filth, and not within 200 feet of a swamp or poorly drained area. Kitchen and quarters shall be located at least 200 feet from any poultry house, stable or penned livestock except that with new construction, the distance shall be 500 feet. The premises shall be properly graded so as to prevent the accumulation of surface water. The area of the site shall be adequate to provide the following minimum space between buildings in all new construction:

- 4.1.1.1 Single story buildings—15 feet
- 4.1.1.2 Single Story, row type buildings—25 feet
- 4.1.1.3 Two-story buildings—25 feet

4.1.2 The area shall be maintained in a clean and sanitary condition at all times.

4.1.3 An adequate number of yard lights shall be provided in the main area and include the laundry, shower and toilet areas.

4.2 Shelter Requirements

Every shelter used for housing of migrant workers shall be constructed in a substantial manner and shall provide shelter to the occupants against the elements. The roof and exterior walls shall not leak.

4.2.1 Heating

4.2.1.1 All living quarters and service rooms shall be provided with properly installed, operable heating equipment capable of maintaining a temperature of at least 68°F. if, during the period of normal occupancy, the temperature in such quarters falls below 68°F.

4.2.1.2 Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. No portable heaters other than those operated by electricity shall be provided. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.

4.2.1.3 Any wall, or ceiling within 18 inches of a solid or liquid fuel stove or a stovepipe shall be of fireproof material. A vented metal collar shall be installed around a stovepipe, or vent passing through a wall, ceiling, floor or roof.

4.2.1.4 When a heating system has automatic controls, the controls shall be of the type which cuts off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a pre-determined safe temperature or pressure is exceeded.

4.2.2 Living Quarters

4.2.2.1 Space

4.2.2.1.1 All shelters shall provide beds, cots or bunks that are raised at least 12 inches from the floor. There shall be at least 24 inches, both laterally and end to end, between each bed, cot or bunk. Beds shall be single except for families. The camp operator shall furnish a mattress which is clean, cleanable and in good repair.

4.2.2.1.2 Adequate and separate arrangements for hanging clothing and storing personal effects for each person or family shall be provided. Twenty-four (24) inches of shelf with a bar or substantial cord stretched beneath will be adequate space per person. Individual lockers may be used.

4.2.2.1.3 Space requirements in shelter shall be as follows:

4.2.2.1.3.1 For sleeping purposes only, in family units, not less than 50 square feet per occupant.

4.2.2.1.3.2 In barracks or dormitories, for sleeping only (using double bunks), not less than 40 square feet per occupant except with new construction, the square footage will be 50.

4.2.2.1.3.3 In family units used for sleeping and cooking, not less than 60 square feet per occupant except with new construction, the square footage will be 100.

4.2.2.1.3.4 All rooms in quarters shall have a minimum of 7 feet ceiling height. This requirement shall not apply to mobile homes.

4.2.2.1.3.5 Housing used for families with one or more children over six years of age shall have a room or partitioned sleeping area for the husband and wife. The partition shall be of rigid materials and be installed so as to provide privacy.

4.2.2.2 Ventilation

All living quarters shall be so constructed as to provide adequate ventilation. The total area of the windows shall be not less than one tenth of the floor area. At least one half of each window shall be constructed so that it can be opened for purposes of ventilation.

4.2.2.3 Exterior Openings

Exterior openings used for ventilation shall be effectively screened with at least 16 mesh per square inch material. All screen doors shall open outwards, where possible, and be self closing.

4.2.2.4 Floors

Floors shall be constructed of smooth wood, concrete or other acceptable material which can be readily cleaned. The floors shall be kept in good repair, be of tight construction and be at least 12 inches above ground level, except where the floor is a concrete slab placed directly on the ground.

4.2.2.5 Rooms

Rooms in every shelter shall be maintained in a reasonably clean and safe sanitary condition.

4.2.2.6 Separate Quarters

Separate quarters shall be provided for each family. When both males and females not members of the same family are housed in one building, a separate room with private entrances shall be provided for each sex.

4.2.3 Cooking and Eating Facilities

4.2.3.1 Individual/Common Units

4.2.3.1.1 When workers or their families are permitted or required to cook and/or eat in their individual unit or in a common facility, a room or space shall be provided and equipped for cooking and eating. Such space shall be provided with:

4.2.3.1.1.1 Stoves or hot plates, with a minimum equivalent of two burners, in a ratio of 1 stove or hot plate to 10 persons, or 1 stove or hot plate to 2 families in a screened enclosure.

4.2.3.1.1.2 Adequate food storage shelves and counter space for food preparation.

4.2.3.1.1.3 Mechanical refrigeration for food at a temperature of not more than 45°F.

4.2.3.1.1.4 Tables and chairs or equivalent seating adequate for the intended use of the facility. These are to be provided at a rate to seat one-half of the camp's population. Boxes or concrete blocks are not considered as suitable seating.

4.2.3.1.1.5 Adequate facilities for washing, rinsing and sanitizing dishes and utensils. This will include at a minimum, a two-compartment sink with proper disposal of the liquid waste.

4.2.3.1.1.6 Adequate lighting and ventilation.

4.2.3.1.1.7 Floors shall be of non-absorbent, easily cleaned materials.

4.2.3.2 Central Mess Facility

4.2.3.2.1 When central mess facilities are provided, the kitchen and mess hall shall be in proper proportion to the capacity of the housing and shall be separate from the sleeping quarters. The physical facilities, equipment and operation shall be in accordance with provisions of applicable State codes.

4.2.3.2.2 The wall surface adjacent to all food preparation and cooking areas shall be of non-absorbent, easily cleaned and fire-resistant material.

4.2.4 Water Supply

An adequate and convenient supply of water that meets the standards of the State Board of Health shall be provided. Any construction that is approved after April 12, 1976 will require hot and cold water under pressure in all plumbing facilities that are installed.

4.2.4.1 Cold Water Tap

4.2.4.1.1 A cold water tap shall be available within 100 feet of each individual living unit when water is not provided in the unit. Approved drainage facilities shall be provided for overflow and spillage. Common drinking cups shall not be permitted.

4.2.4.2 Water Demand

4.2.4.2.1 Water supply shall be deemed adequate if it is capable of delivering 35 gallons per person per day to the camp at a peak of 2½ times the average hourly demand.

4.2.5 Toilet, Showers and Laundry Facilities

4.2.5.1 Toilets

4.2.5.1.1 Except in individual family units, separate toilets and showers shall be provided for each sex and shall be distinctly marked for **"Men"** and **"Women"** by signs printed in English and in the native language of persons occupying the camp.

4.2.5.1.2 All toilets shall be readily accessible to living quarters and shall, in no case, be more than 200 feet distance from any shelter. In case of pit privies they shall be no closer than 100 feet from any living quarters, kitchen, mess hall, or seepage area. Drained walkway shall be provided. Chemical toilets can be no closer than 50 feet.

4.2.5.1.3 Common-use toilets and pit privies shall be well lighted, ventilated, and shall be kept clean and sanitary.

4.2.5.1.4 If pit privies are provided, they shall be constructed in conformance with the regulations of the State Board of Health.

4.2.5.2 Showers and Laundry Facilities

All rooms and utility buildings shall be well lighted and ventilated. Floors and ceilings shall be of smooth finish materials and impervious to moisture. Floors shall slope to drain. Floor drains shall be provided in all shower, toilet, and laundry rooms to remove waste water and facilitate cleaning.

~~Laundry areas may be on concrete slabs. All junctions of the curbing and the floor shall be rounded if possible. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash (6 feet). Partitions between men and women's showers or toilets shall be constructed of rigid material to afford privacy. Partitions are required between women's showers.~~

~~4.2.5.3 Ratios~~

~~4.2.5.3.1 Toilets, lavatories, shower and laundry facilities shall be provided in the following ratios:~~

~~4.2.5.3.1.1 One (1) toilet for each 15 persons of each sex. A minimum of two (2) units for shared facilities or a single unit for family facilities. Each toilet room will have 6 sq. ft. of window to the outside; this does not include pit privies.~~

~~4.2.5.3.1.2 One (1) urinal unit or 2 linear feet of urinal trough may be substituted for one toilet up to 1/3 of required toilet seats. The floor from the wall and a distance not less than 15 inches measured from the edge of the urinal shall be constructed of material impervious to moisture.~~

~~4.2.5.3.1.3 One (1) lavatory (handwashing) for each 15 persons of each sex, except that with new construction, there shall be one (1) lavatory (handwashing) for each six (6) persons.~~

~~4.2.5.3.1.4 One (1) shower for each 15 persons of each sex, except that with new construction, there shall be one (1) shower for each ten (10) persons of each sex.~~

~~4.2.5.3.1.5 One (a) laundry tray or tub for each thirty (30) persons. One mechanical washer for each 50 persons may be provided in lieu of laundry trays, although a minimum of one laundry tray or tub per 100 persons shall be provided in addition to the mechanical washer.~~

~~4.2.5.4 Miscellaneous~~

~~4.2.5.4.1 Hot and cold water under pressure shall be provided for lavatories, showers and laundry facilities.~~

~~4.2.5.4.2 Facilities shall be provided for drying clothes.~~

~~4.2.5.4.3 All plumbing shall be approved by the State Board of Health.~~

~~4.2.5.4.4 All laundry, toilet or service rooms shall be cleaned daily.~~

~~4.2.5.4.5 All liquid waste shall be discharged into a sanitary sewer or into a sewage disposal system approved by the Department of Natural Resources and Environmental Control.~~

~~4.2.6 Lighting~~

~~Each habitable room in a camp shall be provided with at least one ceiling type light fixture and at least one separate floor or wall type convenience outlet. Laundry, toilet rooms and rooms where people congregate shall contain at least one ceiling or wall type fixture. Light levels in toilet and storage rooms shall be at least 20 foot candles, 30 inches from the floor. Other rooms including kitchens and living quarters, shall have light levels of at least 30 foot candles, 30 inches from the floor. All electrical installations must meet the requirements of the State Board of Electrical Examiners.~~

~~4.2.7 Solid Waste~~

~~4.2.7.1 Durable, flytight, covered, impervious, rodent proof, cleanable containers approved by the State Board of Health shall be provided for the collection of garbage and refuse. At least one such container shall be located within 100 feet of each shelter, on a suitable base such as wood, metal, concrete or gravel. A container is to be provided at a ratio of one (1) per family or one (1) per fifteen (15) workers. Garbage receptacles must be emptied when full and cleaned at least two times a week or more often if necessary.~~

~~4.2.7.2 Garbage, combustible refuse, and rubbish shall be disposed of in accordance with the regulations of the Department of Natural Resources and Environmental Control.~~

~~4.2.8 Communicable Diseases to be Reported~~

~~4.2.8.1 Appendix A is a list of reportable diseases; the occurrence or suspected occurrence of these diseases shall be reported to the County Health Officer within 48 hours of recognition. Reports shall be made by telephone or in writing except for certain specified diseases as indicated by a (T) which shall be reported immediately by telephone. This shall be the duty of the permit holder when made aware of such reportable disease. The provisions of the Communicable Disease Regulations of the State Board of Health shall be followed.~~

~~4.2.9 Control of Rodents, Insects and Other Vermin~~

~~4.2.9.1 Methods approved by the State Board of Health must be used for the elimination and control of rodents, insects or other vermin.~~

~~4.2.10 Fire, Safety and First Aid~~

- 4.2.10.1 Fire extinguishers are to be provided in each camp and to be located no further than 100 ft. from the housing area when the extinguisher is not in use. Agricultural pesticides and toxic chemicals shall not be stored in the migratory agricultural labor housing or camp area.
- 4.2.10.2 A first aid kit shall be supplied by the migratory agricultural labor housing/camp operator, and shall be located in an easily accessible place and available for immediate use. The kit shall be equivalent to the 16 unit recommended by the American Red Cross.

5.0 Field Sanitation (Hand Labor) Standards

Agricultural employers shall provide the following for employees engaged in hand labor operations in the field, without cost to the employee:

5.1 Potable Drinking Water

- 5.1.1 Potable water shall be provided and shall be placed in locations readily accessible to all employees. The water shall be suitably cool and in sufficient amounts (6 quarts per person per day), taking into account the air temperature, humidity and the nature of the work performed to meet employees' needs.
- 5.1.2 The water shall be dispensed in single use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.

5.2 Toilet and Handwashing Facilities

- 5.2.1 One toilet facility and one handwashing facility shall be provided for each twenty (20) employees or fraction thereof, except when the period of field work (including transportation time to and from the field) is three (3) hours or less.
- 5.2.2 Toilet and handwashing facilities shall be accessible, in close proximity to each other, and within one quarter (1/4) mile of each employees' place of work in the field. Where it is not feasible to locate facilities accessibly and within the required distance due to the terrain, they shall be located at the point of closest vehicular access.
- 5.2.3 Toilet facilities shall have doors that can be closed and latched from the inside and shall be constructed to insure privacy and be screened to exclude flies.
- 5.2.4 The handwashing facility shall include soap (liquid or bar), single use towels and covered containers for the towel disposal, potable water (a minimum of 4 gallons of water per day per worker), and a method for safe disposal of the water.

5.3 Maintenance

Potable drinking water and toilet and handwashing facilities shall be maintained in accordance with public health sanitation practices, including the following:

- 5.3.1 Drinking water containers shall be covered, cleaned and refilled daily;
- 5.3.2 Toilet facilities shall be operational and maintained in a clean and sanitary condition;
- 5.3.3 Handwashing facilities shall be maintained in clean and sanitary conditions and
- 5.3.4 Disposal of wastes from facilities shall not cause insanitary conditions.

5.4 Reasonable Use

- 5.4.1 Employees shall be allowed reasonable opportunities during the workday to use the facilities.

6.0 Compliance Procedures

- 6.1 General Enforcement. It shall be the duty of the State Health Officer, the Deputy State Health Officers, or any officially designated representative to enforce the provisions of this Regulation.

The State Board of Health, or its designated authority, for just reasons of non-compliance with the requirements of these Regulations, may refuse to issue a permit, may deny the reissuance of a permit, or may suspend a permit. In all cases, the applicant for a permit, or the holder of a permit shall be granted due process in the appeal of action by the Regulatory Authority.

6.1.1 New and Existing Facilities

The owner/operator of every camp or field sanitation (hand labor) operations shall comply with the requirement of Section 3.0 of these Regulations. If a camp or agricultural employer does not have a permit, the Regulatory Authority must notify the Deputy State Health Officer. The Deputy State Health Officer will send a letter to the owner/operator of the camp or field hand labor operations if the owner/operator fails to apply for a permit. Action will be taken as described in Section 6.11 of these Regulations.

6.1.2 Change of Ownership, Management Firm or Lessee

- 6.1.2.1 In the event a camp or field operation changes ownership, management firm, or lessee, it is the responsibility of the new owner to notify the Regulatory Authority of such a change; and to provide

the Regulatory Authority with the name(s) and address(es) of the new owners, managers, operators as an update to the permit application. The notice of the change shall be forwarded to the Deputy State Health Officer in the county in which the camp or farm operation is located.

- 6.1.2.2 If any upgrading of the physical structure of the transferred facility is required based on previous inspection reports of the Regulatory Authority, the new ownership will be held responsible for the needed renovations. Compliance with these Regulations shall be completed prior to the start of business unless the new ownership is either granted a variance in accordance with Section 6.12 or is granted a provisional permit in accordance with Section 3.2.2 of these Regulations. Upon compliance with these Regulations, an annual permit shall be issued to the operator as described in Section 3.2.1

6.2 Inspections

6.2.1 Inspection Frequency

An inspection of a camp or field sanitation (hand labor) operation shall be performed before a permit is issued and at least once each month by the staff of the Division of Public Health, State of Delaware. Additional inspections of camps or field sanitation (hand labor) operations shall be performed as often as necessary for the enforcement of these Regulations.

6.2.2 Access

Representatives of the Regulatory Authority, after proper identification, shall be permitted to enter any camp or field sanitation (hand labor) operation at any reasonable time, for the purpose of making inspections to determine compliance with these Regulations. These inspections may include any room or area associated with the camp or field sanitation (hand labor) operation. The Deputy State Health Officer may, after providing an opportunity for a hearing, suspend for a period not to exceed thirty (30) days, the permit to operate a camp or field sanitation (hand labor) operation for refusing access to representatives of the Regulatory Authority.

6.2.3 Inspection Report Form

The form as modified by these Regulations in Appendix B shall be used to record inspections of the camp as specified in Section 6.8 below. The post-construction inspection report form, which appears as Appendix C in these Regulations, shall be used to record the post-construction inspections of a camp. The form which appears as Appendix D in these Regulations, shall be used to record field sanitation (hand labor) inspections. A co-signed copy of the completed inspection report form shall be furnished to the person in charge of the camp or field sanitation (hand labor) operation at the conclusion of the inspection. Inspectional remarks on the completed inspection form shall refer to the item(s) violated, give the time period for correcting the violation(s) and shall state the corrections to be made. The inspection report form shall summarize the requirements of the Regulations. It shall also state that "Failure to comply with any time limits for corrections in this notice may result in cessation of your camp or field sanitation (hand labor) operation." The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, in accordance with the Freedom of Information Act.

6.2.4 Report of Inspections

- 6.2.4.1 Regular Inspections. Regular inspections are performed on a routine basis in permitted facilities. These inspections shall address all items on the inspection report form. Items in violation shall be recorded by item number.

- 6.2.4.2 Follow-up Inspections. Follow-up inspections shall be performed when a regular inspection indicates that critical items are in violation.

- 6.2.4.2.1 Follow-up inspections may also be performed after complaint and investigation inspections, or after conferences and hearings.

- 6.2.4.3 Complaint Inspections. Complaint inspections are performed in response to formal or informal complaints against permitted facilities. A complete inspection may be performed by the Regulatory Authority in the interest of the public's health.

- 6.2.4.4 Investigation Inspections. Investigation inspections are performed on permitted or non-permitted camps or field hand labor operations for determining compliance with these Regulations.

- 6.2.4.5 Other Inspections. These inspections include post construction, pre-operational, and other inspections not included above.

6.3 Epidemiology

When the Regulatory Authority has reasonable cause to suspect possible disease transmission by a camp or field sanitation (hand labor) operation or employee thereof, it may conduct an epidemiological investigation. This can indicate morbidity histories, suspected employees, or make any other investigations as indicated, and shall take appropriate action deemed necessary and feasible by the Deputy State Health Officer or the State

Epidemiologist to protect the health of the public and employees of the camp or field sanitation (hand labor) operation.

6.4 Correction of Violations

6.4.1 Critical Items

6.4.1.1 The permit holder shall initiate corrective action on all identified critical items as soon as possible, but not to exceed 72 hours following inspection. The critical items are identified on the inspection sheet and in these Regulations with an asterisk.

6.4.1.2 Follow-up inspections shall be conducted after 72 hours to assure correction.

6.4.2 Non-critical Items

6.4.2.1 All other items shall be corrected by the time of the next regular inspection.

6.4.2.2 If a follow up inspection of a camp or field sanitation (hand labor) indicates non-compliance, a conference shall be scheduled by the Supervising Sanitarian within five (5) working days after the inspection, or as soon as possible thereafter. Notification of a conference shall be made by hand-delivered letter or certified letter to the person in charge of the camp or field sanitation (hand labor). However, if it is determined that conditions warrant, an administrative hearing shall be scheduled.

6.4.2.3 A report documenting the results of the conference shall be submitted in writing to the owner/operator by the Supervising Sanitarian following the conference.

6.5 Procedure for Administrative Action

If the Deputy State Health Officer determines that a condition(s) exists in a camp or field sanitation (hand labor) operation which represents a threat to life or a serious risk of damage to health, safety and welfare of the public, or if serious violations, repeat violations, or general insanitary conditions are found to exist, administrative action is required.

6.6 Imminent Health Hazards

6.6.1 Suspension of Permit

6.6.1.1 If some condition is determined to exist in the camp or field sanitation (hand labor) operation which presents an imminent health hazard to the public, the Deputy State Health Officer or his designee in the county in which the camp or field sanitation (hand labor) operation operates may suspend the operating permit of the camp or field sanitation (hand labor) operation without a hearing or written notice for a period not to exceed ten (10) days.

6.6.1.2 Such an imminent health hazard shall include, but is not limited to, any one of the following:

6.6.1.2.1 A lack of equipment capable of maintaining the product temperature of all potentially hazardous foods as required in Section 3.3 of these Regulations; or

6.6.1.2.2 An ongoing outbreak of an infectious, pathogenic or toxic agent capable of being transmitted; or

6.6.1.2.3 The absence of potable water, supplied under pressure, in a quantity capable of meeting the needs of the facility; or

6.6.1.2.4 A backup of sewage into the facility or into equipment containing food or utensils; or

6.6.1.2.5 An infestation of vermin to the extent that food and food contact surfaces cannot be protected from contamination; or

6.6.1.2.6 The absence of adequate toilet facilities.

6.6.1.3 The suspension shall be effective upon receipt of written notice to the person in charge of the camp or field sanitation (hand labor) operation. A suspension statement recorded on the inspection report by the inspecting Regulatory representative and acknowledged by the signature of the person in charge constitutes a written notice. Service of written notice of suspension by the Deputy State Health Officer stating the reason(s) for suspension shall be made as soon as possible, either by certified mail or hand delivered to the person in charge of the camp or field sanitation (hand labor) operation. The person in charge shall be requested to yield the permit to the representative of the Regulatory Authority.

6.6.2 Automatic Reinstatement of Permit

In the event of a suspension of a permit without a hearing, the permit shall be reinstated upon expiration of the suspension. In no event shall the permit be suspended for a period longer than ten (10) days without a hearing.

6.6.3 Reinstatement of Permit by Letter

If an inspection by a representative of the Division of Public Health shows the imminent health hazard(s) to no longer exist in the camp or field sanitation (hand labor), then the permit shall be reinstated by the

Deputy State Health Officer or his designee in the county in which the camp or field sanitation (hand labor) operates. Service of a written notice of reinstatement shall be made as soon as possible, either by certified mail or by hand delivery to the person in charge of the camp or field sanitation (hand labor). The permit shall be returned to the person in charge.

6.6.4 Reinstatement of Permit by Hearing

6.6.4.1 The owner/operator of the camp or field sanitation (hand labor) may request in writing, a hearing before the Deputy State Health Officer at any time during the period of suspension for the purpose of demonstrating that the imminent health hazard(s) no longer exist(s).

6.6.4.2 The Deputy State Health Officer must schedule a hearing within the 10 day suspension period or the suspension automatically terminates at the end of the 10 day period. The Deputy State Health Officer shall issue a written notice of the hearing to the owner/operator stating the reason for the suspension, the time, date and place of the hearing. The notice shall be hand delivered to the person in charge at the camp or field sanitation (hand labor) immediately. The camp or field sanitation (hand labor) shall remain closed pending the outcome of the hearing.

6.6.4.3 If the Deputy State Health Officer determines, after a hearing, that the condition(s) which presented an imminent health hazard no longer exist(s), the suspension of the permit of the camp or field sanitation (hand labor) shall end immediately. If, however, the Deputy State Health Officer determines that the conditions still exist, he may order that the suspension be extended indefinitely, until such time that the owner/operator of the camp or field sanitation (hand labor) demonstrates that the condition(s) that present(s) an imminent health hazard no longer exist(s).

6.6.5 Extension of Suspension of Permit by Hearing

If the Deputy State Health Officer has reason to believe that the imminent health hazard(s) will continue to exist after the period of suspension by written notice, he may schedule a hearing to determine whether further suspension is required by notifying the owner/operator in writing. The Deputy State Health Officer may decide to request the State Board of Health to revoke the permit.

6.6.6 Documentation of Hearings

A record of all proceedings shall be made in accordance with Section 6.10 of these Regulations.

6.7 Board of Health Action

If the suspension is extended by the Deputy State Health Officer, the owner/operator of the camp or field sanitation (hand labor) may appeal the extension of the suspension of the permit to the State Board of Health for reconsideration. However, appeal of the decision shall not stay the suspension of the permit. In order to appeal for reconsideration by the State Board of Health, a written notice of appeal must be received by the State Board of Health within ten (10) days after the decision of the Deputy State Health Officer extending the period of suspension is announced. The notice of appeal may be sent via certified mail or hand delivered to the offices of the State Board of Health, Dover, Delaware. If a notice of appeal is timely filed, the State Board of Health shall inform the owner/operator of the camp or field sanitation (hand labor), in writing, of the time, date and place of the hearing and the reason for the hearing. Delivery of such notice may be made via certified mail or hand delivered to the person in charge of the camp or field sanitation (hand labor).

6.8 Administrative Hearings

6.8.1 Whenever the compliance terms of the conference, held in accordance with Section 6.4 of these Regulations, have not been met or whenever conditions in a camp or field sanitation (hand labor) warrant, the Deputy State Health Officer shall schedule an administrative hearing. The purpose of the hearing shall be to consider suspension, or recommend revocation of a permit. The Deputy State Health Officer shall not suspend nor suspend nor recommend revocation of a permit of a camp or field sanitation (hand labor) for serious or repeated violations, which do not present an imminent health hazard, without having first held a hearing to determine whether the permit should be suspended or revoked.

6.8.2 The holder of the permit, or the person in charge of the camp or field sanitation (hand labor) must be informed at least ten (10) days prior to the hearing of the date, time, and place of the hearing and the specific charges against the camp or field sanitation (hand labor). The notification of the hearing shall be sent by certified mail, or by hand delivery.

6.8.3 The Deputy State Health Officer, after providing the opportunity for a hearing, may suspend for a period not to exceed thirty (30) days, or may recommend revocation of a permit to operate a camp or field sanitation (hand labor) for serious or repeated violations of any of the requirements of these Regulations.

6.8.4 If, after holding a hearing, the Deputy State Health Officer renders a decision to suspend, or recommends revocation of the permit, the decision shall not be effective until ten (10) days after the decision is announced in writing to the defendant. A recommendation to revoke a permit must be forwarded to the State Board of Health in writing.

6.9 Right of Appeal to the Board of Health

The owner/operator of the camp or field sanitation (hand labor) may appeal to the State Board of Health for reconsideration of the decision of the Deputy State Health Officer. In order to appeal for reconsideration, written notice of appeal must be received by the State Board of Health within ten (10) days after the decision of the Deputy State Health Officer is announced. The notice of appeal may be sent via certified mail or hand delivered to the State Board of Health, Dover, Delaware. If a notice of appeal is timely filed, the decision of the Deputy State Health Officer in regard to suspension or revocation of the permit of a camp or field sanitation (hand labor) for critical or repeat violations, will be stayed until that decision is confirmed by the State Board of Health. If the notice of appeal is timely filed, the State Board of Health shall hold a hearing within thirty (30) days of the filing of the notice of appeal with the State Board.

6.10 Records of Administrative Proceedings

The hearings provided for in these Regulations shall be conducted by the regulatory authority at a time and place designated by it. Written minutes shall be made of all hearing proceedings and shall become documents of record. A written report of the hearing decision shall be furnished to the holder of the permit by the Deputy State Health Officer within ten (10) days following the hearing.

6.11 Refusing to Apply for A Permit

If the owner/operator of a camp or field sanitation (hand labor) operation refuses to apply for a permit or the establishment does not comply with the requirements of these Regulations, then the Supervising Sanitarian shall refer the case, to the Deputy State Health Officer.

6.12 Variance

6.12.1 The Board of Health may from time to time grant written permission to individual employers or providers of migratory agricultural housing or field sanitation (hand labor) operations to vary from particular provisions set forth in this Part when the extent of the variation is clearly specified and it is demonstrated to their satisfaction that:

6.12.1.1 Such variation is necessary to obtain a beneficial use of an existing facility;

6.12.1.2 The variation is necessary to prevent a practical difficulty or unnecessary hardship; and

6.12.1.3 Appropriate alternative measures have been taken to protect the health and safety of the migrants and assure that the purposes of the provisions from which the variation is sought will be observed.

6.12.2 Written applications for such variations shall be filed with the Director, Division of Public Health. No such variation shall be effective until granted by the State Board of Health.

6.13 Remedies

6.13.1 Penalties

Any such person (or responsible officer of that person) who violates a provision of this Regulation, and any person (or responsible officer of that person) who is the holder of a permit or who otherwise operates a camp or field sanitation (hand labor) operation that does not comply with the requirements of these Regulations shall be subject to the provisions of 16 Del.C. §107.

7.0 Severability

If any provision or application of any provision of these Regulations is held invalid, that invalidity shall not affect other provisions or applications of these Regulations.

APPENDIX A

Notifiable Disease

1. Acquired Immune Deficiency Syndrome (T)
2. Amebiasis
3. Anthrax (T)
4. Botulism (T)
5. Brucellosis
6. Campylobacteriosis
7. Chancroid
8. Cholera (T)
9. Diphtheria (T)
10. Encephalitis
11. Foodborne Disease Outbreaks (T)

12. Giardiasis
13. Gonococcal Infections
14. Granuloma Inguinale
15. Hansen's Disease (Leprosy)
16. Hepatitis (viral-all types)
17. Histoplasmosis
18. Influenza
19. Lead Poisoning
20. Legionnaires Disease
21. Leptospirosis
22. Lymphogranuloma Venereum
23. Malaria
24. Measles (T)
25. Meningitis (bacterial)
26. Meningitis (aseptic)
27. Meningococcal Disease (other)
28. Mumps
29. Pertussis
30. Plague (T)
31. Poliomyelitis (T)
32. Psittacosis
33. Rabies (man, animal) (T)
34. Reye's Syndrome
35. Rocky Mountain Spotted Fever
36. Rubella
37. Rubella, Congenital Syndrome
38. Salmonellosis
39. Shigellosis
40. Smallpox (T)
41. Syphilis
42. Tetanus
43. Toxic Shock Syndrome
44. Trichinosis
45. Tuberculosis
46. Tularemia
47. Typhoid Fever (T)
48. Typhus Fever
49. Vaccine Adverse Reactions
50. Waterborne Disease Outbreaks (T)
51. Yellow Fever (T)

Note: T's Notified by telephone call

APPENDIX B

Migratory Agricultural Labor Housing and Camp Inspection Report

Based on an inspection this day, the items circled below identify the violation operations of facilities which must be corrected by the next routine inspection. Items marked with a * (critical) must be corrected within seventy two (72) hours. Failure to comply with all time limits for corrections in this notice may result in cessation of your Migratory Agricultural Labor Housing and Camp Operations.

Name of Camp	Address	Phone Number	Housing Capacity
Name of Operator	Address	Zip Code	

ITEM		ITEM		ITEM	
4.1 Site		(4.2.3.1.1.4) Adequate table,		Toilets, proper	
Location, drained, clean		— Chairs		— Location	
Yard Light, space		*(4.2.3.1.1.5) Washing facilities		*Common toilet, shower	
4.2 Shelter		(4.2.3.1.1.6) Ventilation kept		— Rooms	
*Good repair		— Clean		Lighted, ventilation	
*Heat when required		Central kitchen & mess		— Clean	
Bed constr., spaced		Location & size		Hot & cold water	
Furnished bedding, clean &		*Openings screened, doors		— Required	
— Good repair		— Self-closing, open		Adequate # toilets,	
Personnel prop. Storage		— Out		— Showers	
*(4.2.2.1.3.1) Family units,		*Adequate equipment,		Lavatories, laundry	
sleeping		— Cooking, dishwashing,		— Facilities	
— 50 sq. ft. per person		— Utensils, good repair		Approved liquid waste	
*(4.2.2.1.3.2) Barracks,		— Clean		— Disposal	
double bunks				Privies, Plumbing	
— 40 sq. ft.				— Approved	
*(4.2.2.1.3.3) Family units		Metal waste containers		4.2.6 Lighting	
sleeping		Walls & floor, non-		Light fixture &	
— & cooking, 60 sq. ft. per		— Absorbent material		— Outlet	
— Person		— Clean		*4.2.7 Solid Waste	
(4.2.2.1.3.4) Min. 7' ceiling		*Cooking area wall, fire-		Approved receptacle,	
Window, 1/10 of floor area		— Resistant		— Location, clean-	
*Screened doors, self-		4.2.4 Water Supply		— Emptied 2 times/wk.	
— Closing, open out		*Location, const.		— Approved disposal-	
Floor 12" above ground		— Approved		*4.2.8 Communicable	
Good repair, clean		Faucet 100' from		— Diseases Reported	
Family separated, sex		— Quarters		*4.2.9 Rodents/	
Not of same family sep.,		Drainage from each		— Insects Controlled	
— Private entrance		— Faucet		*4.2.10 Fire Safety	
4.2.3 Cooking		4.2.5 Toilet/Bath/		— First Aid	
*(4.2.3.1.1.1) 1-2 burner stove		— Laundry			
— Each 10 persons		Facilities separate			
4.2.3.1.1.2) Work table,					
storage					

4.2.4	Cookstove				4.2.6	—Waste discharged into approved disposal system	4.2.10	Lighting — one ceiling fixture and one wall outlet	Fire extinguishers and first aid kit
	Food storage								
	Mech. Refrig.								
	Table chairs								
	Light Vent.								
	Dishwashing area								
	Floors Cleanable								
Walls nonabsorbent									
4.2.4	Water supply meets State Board Of Health Standards; hot- Cold water under pressure; Cold water tap — 100 ft.								

REMARKS: _____

CAMP OPERATOR: _____ DATE: _____ INSPECTED BY: _____

APPENDIX D

FIELD HAND LABOR SANITATION INSPECTION REPORT

Based on an inspection this day, the items circled below identify the violation in the operation which must be corrected as soon as possible, but not to exceed 72 hours following the inspection.

Name of Field Operation _____ Location _____ Capacity _____

Name of Operator _____ Address _____ Zip Code _____ Phone Number _____

Section 5.1 Potable Drinking Water
 Readily accessible, suitably cool, sufficient amount (6 qts/person/day), dispensed in single use drinking cups or fountain (no common cups); storage containers covered, cleaned and refilled daily.

Section 5.2 Toilet and Handwashing Facilities
 One (1) facility per 20 workers; facilities are in close proximity to each other, located with 1/4 mile of work place.

Handwashing Facilities — maintained in clean, sanitary condition. Soap, single service towels and covered trash containers provided.

Toilet Facilities — latch doors, toilet paper, operational and clean.
 Disposal of waste from handwashing and toilet facilities does not cause insanitary condition.

Section 5.4 Reasonable Use
 Employees shall be allowed reasonable opportunities during the workday to use the facilities.

REMARKS: _____

RECEIVED BY: DATE: INSPECTED BY:

1.0 General Provisions

1.1 Preamble

1.1.1 The Secretary of Delaware Health and Social Services adopts these Regulations pursuant to the authority vested by **16 Del.C. §122(3) a, b, c, e, g and j.** These Regulations, as amended, provide a system of permitting, inspecting and enforcing migratory agricultural labor housing camps and field sanitation/hand labor operation.

1.1.2 These Regulations are adopted on (Month Day Year) and have an effective date of (Month Day Year).

1.2 Purpose and Scope

1.2.1 The purpose of these Regulations is to provide minimum standards for design, construction, maintenance and operation of migratory agricultural labor housing camps and field sanitation/hand labor operation in the State of Delaware, and to assure a clean, healthful, and safe environment for agricultural workers and their families using these camps and facilities.

1.2.2 These Regulations in no way preclude a facility from establishing additional rules and operating procedures that do not contradict those established herein.

1.3 Variance

1.3.1 The Division may grant a variance by modifying or waiving the requirements of these Regulations if, in the opinion of the Division, a health hazard or nuisance will not result from the variance.

1.3.2 A variance shall not be transferable from person to person, or from location to location.

1.3.3 If a variance is granted, the Division shall retain the information specified below in its records for the camp or field sanitation/hand labor operation:

1.3.3.1 A statement of the proposed variance of the requirement of these Regulations, citing the relevant section of these Regulations;

1.3.3.2 An analysis of the rationale for how the potential public health hazard or nuisance will be alternatively addressed by the proposal; and

1.3.3.3 Any other information requested by the Division that may be deemed necessary to render the judgment.

1.3.4 A variance, if granted, is rendered void upon occurrence one or more of the following: the physical facility is demolished; a remodeling project in the facility includes the area addressed in the variance; or the permit holder granted the variance ceases to operate the camp or field sanitation/hand labor operation for a period exceeding 30 consecutive days.

1.4 Severability

1.4.1 In the event any particular clause or section of the Regulations should be declared invalid or unconstitutional by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.

2.0 Definitions

For the purposes of these Regulations the following definitions shall apply:

"Agricultural Employer" means any person, corporation, association, or other legal entity that: owns or operates an agricultural establishment; 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 recruits and supervises employees or is responsible for the management and condition of an agricultural establishment.

"Agricultural establishment" means a business operation that uses paid employees in the production or handling of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

"Director" means the Director of the Delaware Division of Public Health or his/her designee.

"Division" means the Delaware Division of Public Health as the agency, and its authorized representative, having jurisdiction to promulgate, monitor, administer and enforce these Regulations.

"Field Sanitation Operation" means any agricultural establishment where 11 or more employees are engaged on any given day in hand-labor operations in the field for more than three (3) consecutive hours.

“Hand Labor Operation” means agricultural activities or agricultural operations performed by hand or with hand tools. Hand labor operations also include other activities or operations performed in conjunction with hand labor in the field. Some examples of hand labor operations are the hand-cultivation, hand-weeding, hand-planting and hand-harvesting of vegetables, nuts, fruits, seedlings or other crops, including mushrooms, 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. Hand-labor does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).

“Handler” means any person (except a common or contract carrier of produce owned by another person) who handles produce, including a producer who handles produce of his own production.

“Handwashing facility” means a facility providing a basin, container or outlet with an adequate supply of potable water, soap and single-use towels. Moist towelettes cannot be substituted for soap and water.

“Imminent Health Hazard” means a condition that presents a hazard to the health of a migrant agricultural worker or the worker’s family that includes but is not limited to any one of the following:

- An ongoing outbreak of an infectious, pathogenic or toxic agent capable of being transmitted;
- The absence of potable water, supplied under pressure,
- in a quantity capable of meeting the needs of the facility;
- The absence of adequate toilet facilities;
- A backup of sewage into the facility or into equipment containing food or utensils;
- A n infestation of vermin to the extent that food and food contact surfaces cannot be protected from contamination; or
- The lack of equipment capable of maintaining the product temperature of all potentially hazardous foods within the camp.

“Migratory Agricultural Labor Housing and Camp” or **“Camp”** means one or more buildings, structures, trailers, or mobile homes, together with the tract of land pertaining thereto, established, operated or maintained, or used as living quarters for five (5) or more migrant agricultural workers. No tents shall be accepted as living quarters.

“Migratory Agricultural Labor Housing and Camp Operator” or **“Camp Operator”** means the person who has been granted a permit to operate a migratory agricultural labor camp or the person who arranges or provides housing for migratory agricultural workers.

“Migrant agricultural worker” means an individual who is employed in agricultural employment of a seasonal or temporary nature, and who is required to be absent overnight from his permanent place of residence.

“Permit” means written approval by the Division to operate a camp or field sanitation/hand labor operation. Approval is given in accordance with these Regulations and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

“Person” means an individual, corporation, business trust, estate trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.

“Person in Charge” means the owner of the camp or field sanitation/hand labor operation. This individual shall represent the camp at any hearing scheduled pursuant to Section 7.0 of these Regulations. Every migratory agricultural labor housing camps and field sanitation/hand labor operation shall, upon request, provide the Division with the name of their person(s) in charge and how the person in charge can be contacted. A camp operator, hired by the camp owner, cannot be the person in charge.

“Potable Water” means water which is in compliance with all of the required applicable drinking water regulations.

“Shelter” means any building, structure, trailer or mobile home of one or more rooms used for sleeping or living quarters.

“Toilet Facility” means a fixed or portable facility designed for the purpose of adequate collection and containment of the products of both defecation and urination which is applied with toilet paper adequate to employee needs. Toilet facility includes biological, chemical, flush and combustion toilets.

3.0 Preoperational Requirements

3.1 Permits

3.1.1 No person shall operate a migratory agricultural labor housing camp or field sanitation/hand labor operation who does not have a valid permit issued by the Division. Only a person who complies with the requirements of these Regulations shall be entitled to receive or retain a permit.

3.1.2 A valid permit shall be posted in a location easily observed by workers and families.

3.1.3 A permit shall not be transferable from person to person or from location to location.

3.1.4 When a camp or field sanitation/hand labor operation changes ownership, management firm, or lessee, a new permit is required. Both the facility and its operation shall be brought into full compliance with these regulations and the Delaware Building Code prior to the issuance of a permit. A variance may be issued as provided by these Regulations.

3.1.5 When there is new construction or renovations after the adoption of these Regulations, both the facility and its operation shall be brought into full compliance with these Regulations and the Delaware Building Code prior to the issuance of a permit.

3.2 Classification of Operational Permits

3.2.1 Annual Permit – a permit issued to a camp or field sanitation/hand labor operation that is in compliance with these Regulations. An annual permit is valid for one calendar year.

3.2.2 Provisional Permit – a permit issued to a camp or field sanitation/hand labor operation that is not in complete compliance with these Regulations. When no health hazards are present in an existing camp or field sanitation/hand labor operation, as determined by the Division, and the owner or operator demonstrates proof of intention to correct, within a specified time period, those items which do not meet permit requirements, a provisional permit may be issued. Plans, as required, and a written statement delineating changes to be made and completion dates must be presented to the Division before a provisional permit shall be issued. A provisional permit is valid for a 30-day period, with possible extension to a maximum of 60 days, and shall be non-renewable. After satisfactory compliance with provisional permit requirements, an annual permit shall be issued.

3.3 Issuance of Permits

3.3.1 Any person desiring to operate a camp or field sanitation/hand labor operation shall make written application for a permit on forms provided by the Division. Such application shall include the name and address of the owner, the location and type of the proposed camp or field sanitation/hand labor operation and the signature of each applicant. The application shall be made at least 30 days prior to the proposed date of arrival of the migrant agricultural workers.

3.3.2 Prior to approval of an application for a permit, the Division shall inspect the proposed camp or field sanitation/hand labor operation to determine compliance with the requirements of these Regulations.

3.3.3 The Division shall issue a permit to the applicant if its inspection reveals that the proposed camp or field sanitation/hand labor operation complies with the requirements of these Regulations.

3.4 Submission of Plans

3.4.1 Whenever a camp or field sanitation/hand labor operation is constructed or undergoes physical alterations, or whenever an existing structure is converted to a camp or field sanitation/hand labor operation, properly prepared plans and specifications for such construction, alteration or conversion shall be submitted to the Division for review and approval before construction, alteration or conversion begins. The Division shall approve plans and specifications if they meet the requirements of these Regulations.

4.0 Inspections

4.1 Prior to issuance of a permit, the Division shall inspect the proposed camp or field sanitation/hand labor operation to determine compliance with the requirements of these Regulations.

4.2 Representatives of the Division, after proper identification, shall be permitted to enter a camp or field sanitation/hand labor operation at any reasonable time for the purpose of making inspections to determine compliance with these Regulations. These inspections may include any area associated with the camp or field sanitation/hand labor operation.

4.3 Representatives of the Division shall be permitted to examine the records of any camp or field sanitation/hand labor operation to obtain information pertaining to the camp or operation.

4.4 The Director may, after providing the opportunity for a hearing, suspend the permit of a camp or field sanitation/hand labor operation for a period not to exceed 90 days, for refusing access to representatives of the Division.

5.0 General Sanitation – Camps

5.1 Sites

5.1.1 Sites used for camps shall be adequately drained. They shall not be subject to periodic flooding, nor located within 200 feet of swamps, pools, sink holes, or other surface collections of water unless such quiescent water surfaces can be subjected to mosquito control measures. The camp shall be located so the drainage from and through the camp will not endanger any domestic or public water supply. All sites shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.

- 5.1.2 Sites shall be adequate in size to prevent overcrowding of necessary structures. The principal camp area in which food is prepared and served and where sleeping quarters are located shall be at least 500 feet from any area in which livestock is kept.
- 5.1.3 The grounds and open areas surrounding the shelters shall be maintained in a clean and sanitary condition free from rubbish, debris, waste paper, garbage, or other refuse.
- 5.1.4 An adequate number of yard lights shall be provided in the main area including the laundry, shower and toilet areas.

5.2 Shelter

- 5.2.1 Every shelter in the camp shall be constructed in a manner which will provide protection against the elements.
- 5.2.2 Each room used for sleeping purposes shall contain at least 50 square feet of floor space for each occupant. At least a 7-foot ceiling shall be provided.
- 5.2.3 Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles, shall be provided in every room used for sleeping purposes.
 - 5.2.3.1 Beds, cots, bunks and storage facilities shall be spaced not closer than 36 inches both laterally and end to end, and shall be elevated at least 12 inches from the floor.
 - 5.2.3.2 If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches.
 - 5.2.3.3 Triple-deck bunks are prohibited.
- 5.2.4 The floors of each shelter shall be constructed of wood, asphalt, or concrete. Wooden floors shall be of smooth and tight construction. The floors shall be kept in good repair.
 - 5.2.4.1 All wooden floors shall be elevated not less than one (1) foot above the ground level at all points to prevent dampness and to permit free circulation of air beneath.
- 5.2.5 All living quarters shall be provided with windows the total of which shall be not less than one-tenth of the floor area. At least one-half of each window shall be so constructed that it can be opened for purposes of ventilation.
- 5.2.6 All exterior openings shall be effectively screened with 16-mesh material. All screen doors shall be equipped with self-closing devices.
- 5.2.7 In a room where workers cook, live, and sleep a minimum of 100 square feet per person shall be provided. Sanitary facilities shall be provided for storing and preparing food.
- 5.2.8 In camps where cooking facilities are used in common, stoves shall be provided in an enclosed and screened shelter. Sanitary facilities shall be provided for storing and preparing food.
- 5.2.9 All heating, cooking, and water heating equipment shall be installed in accordance with State and local laws. If a camp is used during cold weather, adequate heating equipment shall be provided.

5.3 Water supply

- 5.3.1 An adequate and convenient water supply, approved by the State of Delaware, shall be provided in each camp for drinking, cooking, bathing, and laundry purposes.
- 5.3.2 A water supply shall be deemed adequate if it is capable of delivering 35 gallons per person per day to the campsite at a peak rate of 2.5 times the average hourly demand.
- 5.3.3 The distribution lines shall be capable of supplying water at normal operating pressures to all fixtures for simultaneous operation. Water outlets shall be distributed throughout the camp in such a manner that no shelter is more than 100 feet from a yard hydrant if water is not piped to the shelters.
- 5.3.4 Where water under pressure is available, one or more drinking fountains shall be provided for each 100 occupants or fraction thereof. Common drinking cups are prohibited.

5.4 Toilet facilities

- 5.4.1 Toilet facilities adequate for the capacity of the camp shall be provided.
- 5.4.2 Each toilet room shall be located so as to be accessible without any individual passing through any sleeping room. Toilet rooms shall have a window not less than 6 square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with 16-mesh material. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for other than toilet purposes.
- 5.4.3 A toilet room shall be located within 200 feet of the door of each sleeping room.
- 5.4.4 Where the toilet rooms are shared, such as in multifamily shelters and in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for

women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.

5.4.5 Where toilet facilities are shared, the number of water closets or chemical toilets provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ratio of one such unit to each 15 persons, with a minimum of two units for any shared facility.

5.4.6 Urinals shall be provided on the basis of one unit or 2 linear feet of urinal trough for each 25 men. The floor, from the wall and for a distance not less than 15 inches measured from the outward edge of the urinals, shall be constructed of materials impervious to moisture. Urinals shall be provided with adequate water flush.

5.4.7 Every water closet installed on or after August 31, 1971, shall be located in a toilet room.

5.4.8 Each toilet room shall be lighted naturally or artificially by a safe type of lighting at all hours of the day and night.

5.4.9 An adequate supply of toilet paper shall be provided in each water closet or chemical toilet compartment.

5.4.10 Toilet rooms shall be kept in a sanitary condition and cleaned at least daily.

5.5 Sewage disposal facilities

5.5.1 All sewer lines and floor drains from buildings shall be connected to a sewage disposal system approved by the Delaware Department of Natural Resources and Environmental Control.

5.6 Laundry, handwashing, and bathing facilities

5.6.1 Laundry, handwashing, and bathing facilities shall be provided as per the applicable Delaware Building and Plumbing codes and in the following ratio:

5.6.1.1 One handwash basin per family shelter or per six persons in shared facilities.

5.6.1.2 One shower head for every 10 persons.

5.6.1.3 One laundry tray or tub for every 30 persons.

5.6.1.4 One slop sink in each building used for laundry, hand washing, and bathing.

5.6.2 Floors shall be of smooth finish but not slippery materials; they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be covered. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash – six (6) feet. Partitions are required between women's showers.

5.6.3 An adequate supply of hot and cold running water shall be provided for bathing and laundry purposes. Facilities for heating water shall be provided.

5.6.4 Every service building shall be provided with equipment capable of maintaining a temperature of at least 68° F during cold weather.

5.6.5 Facilities for drying clothes shall be provided.

5.6.6 All service buildings shall be kept clean.

5.7 Lighting

5.7.1 Each habitable room in a camp shall be provided with at least one ceiling-type light fixture and at least one separate floor or wall-type convenience outlet.

5.7.2 Laundry and toilet rooms and rooms where people congregate shall contain at least one ceiling or wall-type fixture.

5.7.3 Light levels in toilet and storage rooms shall be at least 20 foot-candles 30 inches from the floor.

5.7.4 Other rooms, including kitchens and living quarters, shall have light levels of at least 30 foot-candles 30 inches from the floor.

5.8 Refuse disposal

5.8.1 Fly-tight, rodent-tight, impervious, cleanable or single service containers, approved by the Division, shall be provided for the storage of garbage. At least one such container shall be provided for each family shelter and shall be located within 100 feet of each shelter on a wooden, metal, or concrete stand.

5.8.2 Garbage containers shall be kept clean.

5.8.3 Garbage containers shall be emptied when full, but not less than twice a week.

5.9 Construction and operation of kitchens, dining hall, and feeding facilities

5.9.1 In all camps where central dining or multiple family feeding operations are permitted or provided, the food handling facilities shall be provided with the following:

- 5.9.1.1 Stoves or hot plates, with a minimum equivalent of two burners, in a ratio of 1 stove or hot plate to 10 persons, or 1 stove or hot plate to 2 families in a screened enclosure.
- 5.9.1.2 Adequate food storage shelves and counter space for food preparation.
- 5.9.1.3 Mechanical refrigeration for food at a temperature of not more than 41° F.
- 5.9.1.4 Tables and chairs, or equivalent seating, adequate for the intended use of the facility provided at a rate to seat one-half of the camp's population.
- 5.9.1.5 Adequate facilities for washing, rinsing and sanitizing dishes and utensils. This will include, at a minimum, a three compartment sink with proper disposal of the liquid waste.
- 5.9.1.6 Adequate lighting and ventilation.
- 5.9.1.7 Floors made of non-absorbent, easily cleaned materials.
- 5.9.2 A properly constructed kitchen and dining hall adequate in size, separate from the sleeping quarters of any of the workers or their families, shall be provided in connection with all food handling facilities. There shall be no direct opening from living or sleeping quarters into a kitchen or dining hall.
- 5.9.3 No person with any communicable disease shall be employed or permitted to prepare, cook, serve, or otherwise handle food, foodstuffs, or materials used therein, in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.
- 5.10 Control of Animals, Rodents, Insects and Other Vermin
 - 5.10.1 Approved methods shall be used for the elimination and control of animals, rodents, insects or other vermin.
- 5.11 First aid
 - 5.11.1 Adequate first aid facilities shall be maintained and made available in every camp for the emergency treatment of injured persons.
 - 5.11.2 A first aid kit shall be supplied by the camp operator, and shall be located in an easily accessible place and available for immediate use.
- 5.12 Reporting communicable disease
 - 5.12.1 It shall be the duty of the camp operator to report immediately to the Division the name and address of any individual in the camp known to have or suspected of having a communicable disease.
 - 5.12.2 Whenever there shall occur in any camp a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it shall be the duty of the camp operator to report immediately the existence of the outbreak to the Division by telegram, telephone, electronic mail or any method that is equally fast.

6.0 General Sanitation – Field Sanitation/Hand Labor Operations

Agricultural employers shall provide the following for employees engaged in field sanitation/hand labor operations, without cost to the employee:

- 6.1 Potable drinking water.
 - 6.1.1 Potable water shall be provided and placed in locations readily accessible to all employees.
 - 6.1.2 Water shall be suitably cool and in sufficient amounts, taking into account the air temperature, humidity and the nature of the work performed, to meet the needs of all employees.
 - 6.1.3 Water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.
- 6.2 Toilet and handwashing facilities.
 - 6.2.1 One toilet facility and one handwashing facility shall be provided for every 20 employees or fraction thereof.
 - 6.2.2 Toilet facilities shall be adequately ventilated, appropriately screened, have self-closing doors that can be closed and latched from the inside, and shall be constructed to insure privacy.
 - 6.2.3 Toilet and handwashing facilities shall be accessibly located in close proximity to each other. The facilities shall be located within a one-quarter-mile walk of each hand laborer's place of work in the field.
 - 6.2.4 Where due to terrain it is not feasible to locate facilities as required above, the facilities shall be located at the point closest vehicular access.
 - 6.2.5 Toilet and handwashing facilities are not required for employees who perform field work for a period of three (3) hours or less, including transportation time to and from the field, during the day.
- 6.3 Maintenance. Potable drinking water and toilet and handwashing facilities shall be maintained in accordance with the following:

- 6.3.1 Drinking water containers shall be constructed of materials that maintain water quality, shall be refilled daily or more often as necessary, shall be kept covered, and shall be regularly cleaned.
- 6.3.2 Toilet facilities shall be operational and maintained in clean and sanitary condition.
- 6.3.3 Handwashing facilities shall be refilled with potable water as necessary to ensure an adequate supply and shall be maintained in a clean and sanitary condition; and
- 6.3.4 Disposal of wastes from facilities shall not cause unsanitary conditions.
- 6.4 Reasonable use.
 - 6.4.1 The agricultural employer shall notify each employee of the location of the sanitation facilities and water and shall allow each employee reasonable opportunities during the workday to use them. The agricultural employer shall also inform each employee of the importance of following good hygiene practices to minimize exposure to the hazards in the fields of heat, communicable diseases, retention of urine, and agrichemical residues.

7.0 Compliance Procedures

- 7.1 General. When an inspection reveals that the camp or field sanitation/hand labor operation is not in compliance with these Regulations, the permit holder shall take corrective action within the time specified by the Division. The permit holder may additionally be required to provide to the Division a written plan to correct violations of the Regulations, including the method of correction and the anticipated date of completion.
- 7.2 Administrative Action
 - 7.2.1 Operating without a permit
 - 7.2.1.1 If a camp or field sanitation/hand labor operation is found operating without a valid permit, the Division shall order immediate closure. The closure shall be effective upon written notice to the person in charge of the establishment. The establishment shall remain closed until proper application, submission and review of plans, and inspection reveals compliance with these Regulations and approval for permit is made.
 - 7.2.1.2 A conspicuous, colored placard shall be prominently displayed at all entrances of the camp or field sanitation/hand labor operation which has failed to obtain a valid permit.
 - 7.2.2 Imminent Health Hazard
 - 7.2.2.1 Suspension of Permit
 - 7.2.2.1.1 If a condition is determined to exist in a migratory agricultural labor housing camp or field sanitation/hand labor operation that represent an imminent health hazard, the Division may suspend the operating permit of the camp or field sanitation/hand labor operation without a hearing or written notice for a period not to exceed ten (10) days.
 - 7.2.2.1.2 The suspension shall be effective upon receipt of written notice by the person in charge of the camp or field sanitation/hand labor operation. A suspension statement recorded on the inspection report by the inspecting Division representative constitutes a written notice. The person in charge shall be requested to yield the permit to the representative of the Division. The Director shall be notified of the suspension by the close of the following business day. The permit shall not be suspended for a period longer than ten (10) days without a hearing.
 - 7.2.2.1.3 The owner/operator of a camp or field sanitation/hand labor operation may request, in writing, a hearing before the Director at any time during the period of suspension, for the purpose of demonstrating that the imminent health hazard no longer exists. The request for hearing shall not stay the suspension.
 - 7.2.2.1.4 If a follow-up inspection by a representative of the Division shows that the immediate health hazard or the imminent health hazard no longer exists, the suspension shall be lifted immediately and the permit returned.
 - 7.2.2.3 Hearing. If the imminent health hazard is not eliminated, the Division shall schedule an administrative hearing within the ten (10) day period of suspension. The purpose of the hearing is to determine if the suspension should be extended, the permit revoked or other action taken. Failure to hold a hearing within the ten (10) day period shall automatically terminate the suspension.
 - 7.2.2.4 A conspicuous, colored placard shall be prominently displayed at all entrances of a migratory agricultural labor housing camp or field sanitation/hand labor operation whose permit stands suspended or revoked for an imminent health hazard.
 - 7.2.3 Serious Violations, Repeat Violations and General Unsanitary Conditions

7.2.3.1 Suspension of Permit. If serious violations, repeat violations, or general unsanitary conditions exist, the Division may issue and properly serve due notice, by certified mail or by hand delivery, of the intention of the Division to suspend the permit of a migratory agricultural labor housing camp or field sanitation/hand labor operation. The Division shall not suspend a permit of a migratory agricultural labor housing camp or field sanitation/hand labor operation for serious or repeated violations that do not present an imminent health hazard, without having first issued and properly served such notice of intent to suspend.

7.2.3.2 Hearing. Within 30 days of the date of such notice of intent to suspend, the permit holder may submit to the Division a written request for an administrative hearing. The suspension shall commence upon expiration of the notice of intent, unless within 30 days of the date of such notice, the Division receives from the permit holder a written request for an administrative hearing. If the permit holder makes a timely request for an administrative hearing, the suspension shall be stayed pending the results of the hearing.

7.2.3.2 A conspicuous, colored placard shall be prominently displayed at all entrances of a migratory agricultural labor housing camp or field sanitation/hand labor operation whose permit has been suspended or revoked for serious violations, repeat violations or general unsanitary conditions.

7.3 Administrative Hearing

7.3.1 Upon due notice that the Division intends to suspend the permit of a camp or field sanitation/hand labor operation, the permit holder may submit to the Division, within 30 days of the date of such notice of intent, a written request for an administrative hearing.

7.3.2 When an administrative hearing is scheduled, the permit holder of the camp or field sanitation/hand labor operation, shall be informed at least five (5) days prior to the hearing of the place, time, and date of the hearing and the specific charges against the camp or field sanitation/hand labor operation. Notification of the hearing shall be by certified mail or by hand delivery.

7.3.3 Failure of the permit holder to be present for an administrative hearing shall result in automatic suspension of permit and recommendation for revocation.

7.4 Records of Administrative Proceedings

7.4.1 A written report of the hearing decision shall be furnished by the Division to the permit holder of the camp or field sanitation/hand labor operation.

7.5 Additional Penalties

7.5.1 Any person who neglects or fails to comply with the requirements of these Regulations shall be subject to the provisions of **16 Del.C. §107**, and shall be fined not less than \$100 and not more than \$1,000, together with costs, unless otherwise provided by law.

7.5.2 The Division may seek to enjoin violations of these Regulations