

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

Procedural Rules

839-014-0020

Notice of Proposed Rule

Prior to the permanent adoption, amendment or repeal of any rule relating to farm-worker camp operations and registration of farm worker camps, the Bureau of Labor and Industries shall give notice of the intended action as required in OAR 839-002-0002.

Stat. Auth.: ORS 183.335, 651.060(4), 658.705 - 658.850
Stats. Implemented: ORS 658.705 - 658.850
Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BLI 9-2004, f. 7-26-04, cert. ef. 7-27-04

839-014-0035

Definitions

As used in ORS 658.705 to 658.850, and in these rules unless the context requires otherwise:

(1) "Applicant" means an individual who proposes to operate a farm-worker camp and who is applying for a camp operator indorsement.

(2) "Bureau" means the Bureau of Labor and Industries.

(3) "Commissioner" means the Commissioner of the Bureau of Labor and Industries or designee.

(4) "Director" means the Director of the Department of Consumer and Business Services.

(5) "Division" means the Oregon Occupational Safety and Health Division.

(6) "Farm labor contractor" has the same meaning as that provided in ORS 658.405 and the rules adopted thereunder.

(7) "Farm-worker camp" means any place or area of land where sleeping places, mobile home sites or other housing is provided by a farmer, farm labor contractor, employer or any other person in connection with the recruitment or employment of workers to work in the production and harvesting of farm crops or in the reforestation of lands, as described in ORS 658.405. "Farm-worker camp" does not include:

(a) A single, isolated dwelling occupied solely by members of the same family, or by five or fewer unrelated individuals; or

(b) A hotel or motel which provides housing with the same characteristics on a commercial basis to the general public on the same terms and conditions as housing is provided to such workers.

(8) "Farm-worker camp operator," except as otherwise provided in these rules, means any person who operates a farm-worker camp and who is required to obtain a farm labor contractor license with an indorsement as provided in ORS 658.730. In determining who is a farm-worker camp operator, the Bureau will consider the farm worker camp operator to be the person who, as a practical matter, exercises the ultimate right to determine terms and conditions of occupancy of the camp and who controls its maintenance and operation.

(9) "Forestation or reforestation of lands" includes, but is not limited to:

(a) The planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings;

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

(b) The clearing, piling and disposal of brush and slash; and

(c) Other activities related to the forestation or reforestation of lands, including, but not limited to, tree shading, pinning, tagging, or staking; fire trail construction and maintenance; slash burning and mop up; mulching of tree seedlings; and any activity related to the growth of trees and tree seedlings and the disposal of debris from the land.

(10) "Indorsee" means a farm labor contractor licensed under ORS 658.410 who has obtained a camp indorsement.

(11) "Production and harvesting of farm products" includes, but is not limited to, the cultivation and tillage of the soil, the production, cultivation, growing and harvesting or any agricultural commodity and the preparation for and delivery to market of any such commodity.

(12) "Substantial ownership interest in real property" means at least a thirty percent share of the interest in the property.

(13) "Violation" means a transgression of any statute or rule, or any part thereof and includes both acts and omissions.

(14) "Worker" has the same meaning as that which appears in OAR 839-015-0004(13).

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0040

Character, Competence and Reliability

The character, competence and reliability contemplated by ORS 658.705 to 658.850 and these rules includes, but is not limited to, consideration of:

(1) A person's record of conduct in relations with workers, farmers and others with whom the person conducts business.

(2) A person's reliability in adhering to the terms and conditions of any contract or agreement between the person and those with whom the person conducts business.

(3) A person's timeliness in paying all debts owed including advances and wages.

(4) Whether a person has unsatisfied judgments or felony convictions.

(5) Whether a person has been refused a bond.

(6) Whether a person has paid worker's compensation insurance premium payments when due.

(7) Whether a person has violated any provision of ORS 658.405 to 658.850 or the rules adopted thereunder.

(8) Whether a person has employed an agent who has had a farm or forest labor contractor license denied, suspended, revoked or not renewed or who has otherwise violated any provisions of ORS 658.405 to 658.485.

(9) Whether a person has failed to notify the Bureau of any change in the circumstances under which a license was issued.

(10) Whether a person has repeatedly denied access to a farm worker camp to representatives of the Wage and Hour Division who are seeking access in

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

connection with the enforcement of ORS Chapter 658.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

Licensing

839-014-0050

Operators Must Obtain Indorsement

Farm-worker camp operators must obtain a farm labor contractor's license pursuant to ORS 658.405 to 658.475 and the rules adopted thereunder, unless otherwise exempt pursuant to OAR 839-014-0060. Additionally, farm-worker camp operators must obtain a special indorsement from the Bureau authorizing the operator to act as such.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0060

Exemptions

(1) A building or other structure is not considered to be a farm-worker camp if it is:

(a) A single dwelling place, isolated and independent of other dwelling places, which is occupied solely by members of the same family;

(b) A single dwelling place, isolated and independent of other dwelling places, which is occupied by five or fewer persons who are unrelated to one another; or

(c) A hotel or motel provided that the housing provided to workers is provided

under the same terms and conditions that is offered on a commercial basis to the general public.

(2) An operator of a farm-worker camp is not required to obtain the farm-worker camp operator's indorsement when the operator has a substantial ownership interest in the real property on which the camp is located or has any form of ownership interest in the business organization that operates the camp or is related by blood or marriage to a person with such interests provided:

(a) The property on which the camp is located is subject to a special farm use assessment under ORS 308A.050 to 308A.128; and, provided further,

(b) The business organization which operates the camp filed an income tax return reporting farm activity in the preceding tax year.

(3) Permanent employees of the farm-worker camp operator are not required to obtain a farm-worker camp operator indorsement, provided they have no financial interest in the camp or the business other than the wages paid to the employee.

Stat. Auth.: ORS 164, 165, 651, 658.730(1) & 962

Stats. Implemented: ORS 658.705(7) & 658.715(1)(b) - 658.715(2)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BLI 30-2005, f. 12-29-05, cert. ef. 1-1-06

839-014-0075

Issuance of Indorsement

(1) An indorsement may be issued only as follows:

(a) To an individual licensed as a farm/forest labor contractor proposing to operate as a sole proprietor under the

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

individual's own name or under the individual's own name and an assumed business name registered with the Corporation Division;

(b) To an individual licensed as a farm/forest labor contractor proposing to operate as a partner in a partnership under the individuals' own names or under the individuals' own names and the assumed partnership business name registered with the Corporation Division;

(c) To a majority shareholder or majority shareholders of a corporation or cooperative corporation authorized to do business in Oregon by the Corporation Division and licensed as a farm/forest labor contractor.

(2) No indorsement may be issued to an individual proposing to do business as a partner in a partnership unless all the partners who will operate a farm-worker camp are also issued indorsements.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0085

Use of Certain Agents Prohibited/Evidence of Sham or Subterfuge

(1) The bureau may refuse to issue indorsements to any person who proposes to use any individual, partnership, association, corporation or other entity as such persons' agent for the performance of any activity specified in ORS 658.405(1), when the proposed agent has, within the preceding

three years, violated any section of ORS 658.405 to 658.485.

(2) The bureau will regard as prima facie evidence of sham or subterfuge mere changes in business form subsequent to denial, suspension, revocation or refusal to renew a license, where a relative by blood or marriage, or a person presently employed in an occupation, other than an occupation with a licensed farm or forest labor contractor, makes application, including a renewal application, for a license and indorsement if one or more of the following factors are present:

(a) A lack of adequate consideration or value given for the former business or its property;

(b) The use of the same real property, fixtures or equipment or use of a similar business name of the former business;

(c) The time period elapsed between the bureau's denial, suspension, revocation or refusal to renew a license and application by the new business for a license is less than one year;

(d) A person financially interested in any capacity in the former business has a financial interest in any capacity in the new business;

(e) The amount of capitalization is inadequate to meet current obligations of the new business; or

(f) The formalities of a partnership or a corporation are disregarded by the new business when such business is a partnership or corporation.

(3) When the factors outlined in section (2) of this rule are present, it shall be the

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

burden of the applicant to provide evidence to the bureau clearly indicating that such business form is not sham or subterfuge.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0090

Procedure for Obtaining an Indorsement

An indorsement may be applied for as follows:

(1) File a completed application on forms supplied by the Bureau. In the case of a partnership or corporation, each partner, majority shareholder or major shareholders must complete and file a separate application form.

(2) Pay the appropriate fees at the time the application is filed. In the case of a partnership, each partner must pay the appropriate fee.

(3) File with the application proof of financial ability as provided for in ORS 658.415 or 658.735, whichever is greater, or a greater amount if required by the Commissioner, on forms supplied by the Bureau. In the case of a partnership, each partner must file such proof. Such proof may be a corporate surety bond, or a deposit in cash or negotiable securities acceptable to the Commissioner.

(4) File any assumed business name and corporate name with the Corporation Division and submit proof of such filing with the application.

(5) If a corporation, show proof of being authorized to do business in Oregon.

(6) All forms, documents and other required information shall be filed with Bureau of Labor and Industries, Wage and Hour Division, License Unit, 800 N.E. Oregon, #32, Portland, OR 97232.

Stat. Auth.: ORS 658.407(3), ORS 658.415(14), ORS 658.730(1) & ORS 658.820

Stats. Implemented: ORS 658.415, ORS 658.730(1) & ORS 658.735

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 10-1993(Temp), f. 10-29-93, cert. ef. 11-3-93; BL 1-1994, f. & cert. ef. 5-3-94

839-014-0100

Procedure for Obtaining a Duplicate Indorsement

In the event a license with the indorsement is lost or stolen, the licensee shall submit a written request for a duplicate license and indorsement. The licensee shall state the reasons for the request and the circumstances of the loss or theft. The replacement license will indicate the word "duplicate" on the license. The written request shall be made to the Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305.

Stat. Auth.: ORS 164, 165, 651, 658 & 962

Stats. Implemented: ORS 658.705 - 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BLI 30-2005, f. 12-29-05, cert. ef. 1-1-06

839-014-0105

Procedure for Renewing Indorsement

(1) Indorsement shall expire with the farm/forest contractor's license each year unless sooner revoked.

(2) Applications for renewal shall be made 30 days before the expiration date of the license by filing a renewal application, paying

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

the appropriate fees, and filing proof of financial ability to pay wages and certain advances.

(3) Applications, fees and other forms and documents must be filed with the Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305.

Stat. Auth.: ORS 164, 165, 651, 658 & 962
Stats. Implemented: ORS 658.705 - 658.850
Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BLI 30-2005, f. 12-29-05, cert. ef. 1-1-06

Examinations

839-014-0170

Scope

(1) The License Unit shall provide written examinations as the commissioner deems necessary.

(2) The License Unit shall provide all materials required for the examinations except hand-held calculators or slide rules that may be used by the applicant.

(3) All examinations shall be "closed book".

(4) A written examination shall not exceed three hours.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962
Stats. Implemented: ORS 658.705 - ORS 658.850
Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0175

Examination Requirements

(1) Applicants may schedule an appointment with staff or designated proctors throughout the state to take an examination

after receipt of a letter of authorization from the License Unit.

(2) Once an applicant is authorized for examination, the applicant has 30 days in which to schedule an appointment to take the examination. Applicants shall take the examination within 45 days from the date of authorization.

(3) To reschedule an examination after the 45 day examination period or to change the site of the examination shall require submission of a new request.

(4) Except for hand-held calculators, and interpreters, no applicant may use any other aids or notes, or receive help from another person during an examination. Violation of this rule shall result in the examination being invalidated and treated as failed.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962
Stats. Implemented: ORS 658.705 - ORS 658.850
Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0178

Grading of Examinations/Notice of Score

(1) The passing score for each examination shall be 75 percent.

(2) The License Unit shall notify the applicant by mail of the examination scores.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962
Stats. Implemented: ORS 658.705 - ORS 658.850
Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

839-014-0180

Review of Examinations

(1) Applicants failing to pass an examination may schedule an appointment with the License Unit to review the examination at a site designated by the License Unit.

(2) Requests to review failed examinations shall be scheduled within 30 days from notification of scores.

(3) Applicants shall show picture identification before examination review.

(4) Applicants reviewing failed examinations shall not be accompanied by another person during the review or retain notes taken during the review.

(5) Examinations may be reviewed only by the applicant and/or any person who is authorized by the applicant, in writing, to do so.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0185

Re-Examination

(1) Applicants who fail an examination shall wait the following time periods before retaking the examination:

- (a) First failure: 7 days;
- (b) Second failure: 14 days;
- (c) Third failure: 30 days;
- (d) Any subsequent failures: 60 days.

(2) Re-examinations shall not be scheduled sooner than seven days after review of a failed examination.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658.730(1) & ORS 962

Stats. Implemented: ORS 658.730(1)(b)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 6-1990(Temp), f. 4-18-90, cert. ef. 4-17-90; BL 9-1990, f. 5-25-90, cert. ef. 6-1-90

839-014-0190

Substitution of Oregon Examination

(1) The commissioner may recognize national or state examinations for licensing if taken and passed within the last 12 months.

(2) A specific examination that may be recognized in lieu of the Oregon examinations is the Farm Labor Contractor examination for the State of California.

(3) Independent verification of test results from the testing authority is required.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0195

Alternative Methods of Examination

(1) An applicant for whom English is a second language may bring an interpreter to the examination to translate the examination questions. An interpreter may not assist an applicant in answering any question, but may translate the answers.

(2) Alternative methods of examination will be provided upon written request.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658.730(1) & ORS 962

Stats. Implemented: ORS 658.730(1)(b)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

Bonds and Deposits

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BLI 30-2005, f. 12-29-05, cert. ef. 1-1-06

839-014-0200

Proof Required/Forms to be Used

(1) Every applicant for a farm-worker camp operator's indorsement shall, in lieu of the bond or deposit required by ORS 658.415 and unless otherwise exempt, submit a bond or deposit with the application and continually maintain a bond or deposit approved by the commissioner. The applicant may make a deposit in cash or negotiable securities acceptable to the commissioner in lieu of the bond. The bond or deposit shall be conditioned upon:

(a) All sums legally owing to any person when the indorsee or the indorsee's agents have received such sums;

(b) All damages occasioned to any person by reason of any material misrepresentation, fraud, deceit or other unlawful act or omission by the indorsee, or the indorsee's agents or employees acting within the scope of their employment; and

(c) All sums legally owing to any employee of the indorsee.

(2) The bond referred to in section (1) of this rule shall be a properly executed corporate surety bond as evidenced by the completion of Form WH-157.

(3) The forms are available upon request from: Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305.

Stat. Auth.: ORS 164, 165, 651, 658 & 962
Stats. Implemented: ORS 658.705 - 658.850

839-014-0210

Amount of Bond or Deposit to be Filed

(1) The amount of the bond or deposit referred to in OAR 839-014-0200 is \$15,000, unless a greater amount is required by ORS 658.415 or by the Commissioner. The amount of the bond or deposit must be continually maintained as long as the contractor is required to be licensed under ORS 658.405 to 658.475, and is indorsed to operate a farm-worker camp.

(2) When an applicant for a license has been required to satisfy a court-ordered Judgment or a Final Order issued by a governmental agency, the Commissioner or the Commissioner's designee may require the applicant to provide a bond or deposit of up to three times the amount required by ORS 658.415 or 658.735, whichever is greater, as a condition of licensure. In such case, the Commissioner or Commissioner's designee will determine the actual amount of the bond or deposit by considering the following factors:

(a) The amount of the Judgment or Order that was satisfied;

(b) The magnitude and seriousness of the violation or violations which lead to the Judgment or Order;

(c) The past history of the applicant in taking all necessary measures to prevent or correct violations of statutes or rules;

(d) Prior violations, if any, of statutes or rules;

(e) Other matters which indicate to the Commissioner or Commissioner's designee

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

that the applicant is not likely to violate ORS 658.415(3) in the future.

Stat. Auth.: ORS 658.407(3), ORS 658.415(14) & ORS 658.820(1)

Stats. Implemented: ORS 658.415(3) & ORS 658.735(1)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 10-1993(Temp), f. 10-29-93, cert. ef. 11-3-93; BL 1-1994, f. & cert. ef. 5-3-94

839-014-0220

Deposit in Cash or Negotiable Securities

As used in ORS 658.735 and in these rules "a deposit in cash or negotiable securities" means a single financial instrument which yields no less than the amount required pursuant to OAR 839-014-0210 in cash immediately upon demand. If the deposit is one which is subject to a penalty for early withdrawal, then the deposit must be in an amount sufficient to satisfy the penalty and yield no less than the amount required under OAR 839-014-0210 in cash.

Stat. Auth.: ORS 658.407(3), ORS 658.415(14) & ORS 658.820(1)

Stats. Implemented: ORS 658.735(1)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 10-1993(Temp), f. 10-29-93, cert. ef. 11-3-93; BL 1-1994, f. & cert. ef. 5-3-94

Indorsement Protest

839-014-0250

Protesting the Issuance of an Indorsement

Any individual may protest the issuance of an indorsement to any applicant for such an indorsement. The protest may be made at any time after the indorsement is actually issued as well as at any time prior to the issuance of the indorsement.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658.730(1) & ORS 962

Stats. Implemented: ORS 658.730(1)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90

839-014-0260

Procedure for Filing Protest

(1) Any individual desiring to protest the issuance of an indorsement must file the protest in writing with the Bureau of Labor and Industries, Wage and Hour Division, License Unit, 800 NE Oregon Street #32, Portland, OR 97232.

(2) The written protest must contain the following information:

(a) Name, address and phone number of the individual filing the protest;

(b) Date of the protest;

(c) Name of indorsee or applicant against whom the protest is being made;

(d) A complete statement of the facts, circumstances and other reasons for the protest. The statement should include alleged violations, approximate dates of alleged violations, names of witnesses, if any, and any documents which support the allegations;

(e) The signature of the individual making the protest.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.85

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

Records

839-014-0310

Required Records

(1) All farm-worker camp operators shall make and maintain for a period of three years records necessary to determine their

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

compliance with ORS 658.705 to 658.850 and these rules.

(2) Records necessary to determine compliance with ORS 658.705 to 658.850 and these rules include, but are not limited to records of:

(a) The names and permanent home mailing addresses of each resident of the farm-worker camp;

(b) The dates each resident resided in the camp;

(c) Records of financial transactions between the operator and the residents;

(d) Records of any inspection or citations of the camp issued by any agency of government responsible for health, safety or sanitation inspections, and correspondence with any such agency;

(e) Notices posted at the camp to comply with these rules;

(f) Any notices and rules for access to an operating telephone, pursuant to OAR 839-014-0620;

(g) Other required records as determined by the commissioner.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0320

Records Availability

A farm-worker camp operator shall make available to representatives of the Wage and Hour Division records necessary to determine compliance with ORS 658.405 to 658.475, ORS 658.705 to 658.850 and these rules.

Records shall be made available upon the request of such representatives.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

Posting Requirements

839-014-0350

Notice of Compliance with Bond Requirements

(1) Every farm-worker camp operator who is required to furnish a surety bond, or make a deposit in lieu thereof, shall keep conspicuously posted in an exterior area of the camp which is open to all residents and in a manner easily visible to occupants of and visitors to the camp, a notice of compliance with bond requirements in both English and any other language used by the camp operator to communicate with workers.

(2) The notice shall state that the contractor has complied with ORS 658.735, by obtaining a corporate surety bond or by making a deposit with the commissioner. The notice shall indicate the amount of the bond or deposit is conditioned on the payment of:

(a) All sums legally owing to any person when the indorsee or the indorsee's agents have received such sums;

(b) All damages occasioned to any person by reason of any material misrepresentation, fraud, deceit or other unlawful act or omission by the indorsee, or the indorsee's agents or employees acting within the scope of their employment; and

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

(c) All sums legally owing to any employee of the indorsee.

(3) The notice shall contain the name and Oregon address of the surety on the bond, if applicable, or the address of the bureau when a deposit is made with the commissioner.

(4) The notice shall also indicate the expiration date of the bond or deposit.

(5) The commissioner has prepared a notice (Form LU-121) in English and Spanish which complies with this rule. Contractors may use any form or notice so long as it contains all the elements of Form LU-121.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0360

Posting the Indorsement

(1) Every farm-worker camp operator shall keep conspicuously posted a copy of the license, with the appropriate indorsement affixed thereto, in an exterior area of the camp easily accessible to camp occupants. The license must be posted in a manner that is easily visible to the occupants of and visitors to the camp.

(2) The license form to be posted shall be provided to the farm-worker camp operator by the Bureau at the time the licensee receives the indorsement.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658.730(1) & ORS 962

Stats. Implemented: ORS 658.730(2)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90

Enforcement

839-014-0380

Action Against the Bond or Deposit

(1) Any person entitled to recover sums received by the indorsee or the indorsee's agents or damages occasioned to the person by reason of any material misrepresentation, fraud, deceit or other unlawful act or omission by the indorsee or the indorsee's agents or employees acting within the scope of their employment, or any employee of the indorsee who is legally owed any sum has a right of action against the surety on the bond or deposit with the commissioner. The individual may exercise this right or may assign this right to another.

(2) The action on the bond or on the deposit held by the commissioner may not be joined in a suit or action on the bond or against the commissioner brought for any other claim.

(3) Any person seeking to recover on the bond or from the deposit with the commissioner must first establish the farm-worker camp operator liability. The liability may be established in any of the following ways:

- (a) A judgment of the court; or
- (b) A final administrative order issued pursuant to statute or rule; or
- (c) The acknowledgment of the farm-worker camp operator of such liability; or
- (d) Other satisfactory evidence of liability as may be shown which establishes the liability.

(4) Claims against the bond or deposit will not be paid unless, within six months of the end of the license year to which the bond

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

or deposit applies, the claimant or claimant's assignee gives notice of the claim by certified mail to the surety or the commissioner.

(5) Any claim or notice of claim filed pursuant to a claimant's right of action must be filed as follows:

(a) If the filing is against a surety bond, the claim or notice must be filed with the surety. The name and address of the surety may be obtained from the Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305;

(b) If the filing is against a deposit held by the commissioner, the claim or notice must be filed with the Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305;

(6) The commissioner and the surety shall make payments on the bond or deposit in the following priority:

(a) Wage claims;

(b) Payments on all sums legally owing to any employee of the indorsee;

(c) Payments on all sums legally owing to any person when the indorsee or the indorsee's agents have received such sums;

(d) Payments on all damages occasioned to any person by reason of any material misrepresentation, fraud, deceit or other unlawful act or omission by the indorsee or the indorsee's agents or employees acting within the scope of their employment;

(e) If there are insufficient funds to pay all sums, in accordance with the priority of payment, in full, such sums will be paid in part.

Stat. Auth.: ORS 164, 165, 651, 658 & 962

Stats. Implemented: ORS 658.705 - 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BLI 30-2005, f. 12-29-05, cert. ef. 1-1-06

Civil Penalties

839-014-0400

Definitions

As used in OAR 839-014-0400 to 839-014-0450 "knowingly" or "willfully" means action undertaken with actual knowledge of a thing to be done or omitted or action undertaken by a person who should have known the thing to be done or omitted. A person "should have known the thing to be done or omitted" if the person has knowledge of facts or circumstances which, with reasonably diligent inquiry, would place the person on notice of the thing to be done or omitted to be done. A person acts knowingly or willfully if the person has the means to inform himself or herself but elects not to do so. For purposes of this rule, the farm-worker camp operator or any person acting as such is presumed to know the affairs of their business operations relating to farm-worker camp operations.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658.820(1) & ORS 962

Stats. Implemented:

Hist.: BL 2-1990, f. & cert. ef. 3-1-90

839-014-0410

Violations Separate and Distinct

Each violation is a separate and distinct offense. In the case of continuing violations, each day's continuance is a separate and distinct violation.

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658.820(1) & ORS 962

Stats. Implemented:

Hist.: BL 2-1990, f. & cert. ef. 3-1-90

839-014-0420

Violations for Which a Civil Penalty May be Imposed

Pursuant to ORS 658.850, the commissioner may impose a civil penalty for any of the following violations:

(1) Operating a farm-worker camp without first having obtained a farm labor contractor's license in violation of ORS 658.715;

(2) Operating a farm-worker camp without first having obtained an indorsement to do so in violation of ORS 658.715;

(3) Operating a farm-worker camp which is not registered with the Department of Consumer and Business Services in violation of ORS 658.755(2)(a);

(4) Failing to post the indorsement in violation of ORS 658.730(2);

(5) Failing to continually maintain a bond and security behind the bond in violation of ORS 658.735;

(6) Failing to post a notice of compliance with ORS 658.735, in violation of ORS 658.735(8);

(7) Failing to comply with the following provisions of ORS 658.755(1), as follows:

(a) ORS 658.405 to 658.485; or

(b) ORS Chapter 654 and the rules adopted thereunder, provided the division has determined that there has been a failure to comply with said statute and rules; or

(c) All applicable building codes and health and safety codes; or

(d) ORS 659.280 to 659.295 (access to farm-worker camps); or

(e) Pay or distribute promptly, when due, to individuals entitled thereto, money or other things of value as required by ORS 658.755(1)(e); or

(f) The terms and provisions of all legal and valid contracts or agreements as required by ORS 658.755(1)(f); or

(8) Willfully making or causing to be made to any person any false, fraudulent or misleading representation concerning the terms and conditions of occupancy in the farm-worker camp in violation of ORS 658.755(2)(c);

(9) Making any material misrepresentation, false statement or willful concealment in the application for an indorsement in violation of ORS 658.755(2)(b);

(10) Knowingly publishing or circulating any false or misleading information concerning the terms, conditions or existence of housing at any place in violation of ORS 658.755(2)(d);

(11) Knowingly publishing or circulating any false or misleading information concerning the terms conditions or existence of employment at any place in violation of ORS 658.755(2)(d);

(12) Assisting a person who is not entitled to operate a farm-worker camp without a farm labor contractor's license with an indorsement as required by ORS 658.715 to act in violation of any of the following statutes, in violation of ORS 658.755(2)(e):

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

(a) ORS 658.705 to 658.850; or
(b) ORS 658.405 to 658.485; or
(c) ORS Chapter 654 when a violation has been determined by the division in violation of ORS 658.755(2)(e).

(13) By force, intimidation or threat in any manner whatsoever, inducing any occupant of the farm-worker camp to give up any part of the compensation the occupant is entitled to by contract or by any state or federal wage payment law in violation of ORS 658.755(2)(f);

(14) By force, intimidation or threat in any manner whatsoever, restraining any person who wishes to leave the camp from doing so in violation of ORS 658.755(2)(g);

(15) Discharging, evicting or in any other manner discriminating against any person in violation of ORS 658.760; and

(16) Failing to provide housing, without charge, when required by ORS 658.790, pursuant to the provisions of said law.

Stat. Auth.: ORS 658.407(3), ORS 658.415(14) & ORS 658.820

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 10-1993(Temp), f. 10-29-93, cert. ef. 11-3-93; BL 1-1994, f. & cert. ef. 5-3-94; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0430

Criteria for Determining a Civil Penalty

(1) The commissioner may consider the following mitigating and aggravating circumstances when determining the amount of any civil penalty to be imposed, and shall cite those the Commissioner finds to be appropriate:

(a) The history of the farm-worker camp operator or other person in taking all

necessary measures to prevent or correct violations of statutes or rules;

(b) Prior violations, if any, of statutes or rules;

(c) The magnitude and seriousness of the violation;

(d) Whether the farm-worker camp operator or other person knew or should have known of the violation.

(2) It shall be the responsibility of the farm-worker camp operator or other person to provide the commissioner any mitigating evidence concerning the amount of the civil penalty to be imposed.

(3) In arriving at the actual amount of the civil penalty, the commissioner shall consider the amount of money or valuables, if any, taken from camp occupants by the farm-worker camp operator or other person in violation of any statute or rule.

(4) Notwithstanding any other section of this rule, the commissioner shall consider all mitigating circumstances presented by the farm-worker camp operator or other person for the purpose of reducing the amount of the civil penalty to be imposed.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0440

Schedule of Civil Penalties

(1) The civil penalty for any one violation shall not exceed \$2,000. The actual amount of the civil penalty will depend on all the facts and on any mitigating and aggravating circumstances.

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

(2) For purposes of this rule, "repeated violations" means violations of a provision of law or rule which have been violated on more than one contract within 2 years of the date of the most recent violation.

(3) When the commissioner determines to impose a civil penalty for acting as a farm-worker camp operator without a valid license indorsement, the minimum civil penalty shall be as follows:

(a) \$500 for the first violation;

(b) \$1,000 for the first repeated violation;

(c) \$2,000 for the second and each subsequent repeated violation.

(4) The civil penalty for all other violations shall be set in accordance with the determinations and considerations referred to in OAR 839-014-0430.

(5) The civil penalties set out in this rule shall be in addition to any other penalty imposed by law or rule.

Stat. Auth.: ORS 658.820

Stats. Implemented: ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96; BL 5-1996, f. 6-14-96, cert. ef. 7-1-96

839-014-0450

Suspension of Civil Penalty

(1) The commissioner may suspend any civil penalty issued pursuant to ORS 658.850(3), if the matter for which the penalty was issued was corrected within 15 days of the time the operator received notice of the violation for which the civil penalty was issued. Persons desiring to have the civil penalty suspended may petition the commissioner. The petition shall contain each and every reason for the request and shall be

submitted in an answer filed with the person's request for a hearing on the civil penalty action.

(2) The commissioner shall grant or deny the petition and in so doing shall consider the following factors:

(a) The magnitude and seriousness or the violation or violations which led to the civil penalty;

(b) The petitioner's past history in taking all necessary measures to prevent or correct violations of statutes or rules;

(c) The petitioner's other prior violations of the statute or rules, if any;

(d) Other matters which indicate to the commissioner that the petitioner is not likely to violate ORS 658.705 to 658.850 and these rules in the future.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

Denying, Suspending, Revoking or Refusing to Renew or Issue a License Indorsement

839-014-0470

Denying, Suspending, Revoking or Refusing to Renew or Issue a License Indorsement

(1) The commissioner may deny, refuse to issue or renew, suspend or revoke a license indorsement if:

(a) The conditions under which the indorsement was issued have changed or no longer exist;

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

(b) The indorsee's character, competence or reliability makes the indorsee unfit to act as a farm-worker camp operator; or

(c) The applicant or operator makes any material misrepresentation, false statement or willful concealment on the application for a license.

(d) The indorsee discharges, evicts or in any other manner discriminates against any person in violation of ORS 658.760.

(2) The following actions of an indorsee demonstrate that the indorsee's character, competence or reliability make the licensee unfit to act as a farm-worker camp operator:

(a) Operation of a farm-worker camp without a valid indorsement;

(b) Operation of a farm-worker camp without a valid registration certificate when the contractor is required to obtain and maintain a valid registration certificate;

(c) Failure to continually maintain the appropriate bond and security behind the bond;

(d) Failing to comply with ORS 658.405 to 658.485;

(e) Failing to comply with building codes or health and safety laws to the extent that an authority responsible for the enforcement of such codes and laws has determined the farm-worker camp to be unfit for inhabitation;

(f) Violating any provision of ORS 658.755(2); or

(g) Failing to provide lodging as provided for in ORS 658.790.

(3) When an application is denied or an indorsement is revoked or when the

commissioner refuses to issue or renew an indorsement the commissioner will not issue the applicant or indorsee an indorsement for a period of three years from the date of the denial, refusal to issue or renew or revocation of the indorsement.

(4) Notwithstanding section (3) of this rule, the commissioner, for good cause shown, may issue an indorsement to a farm-worker camp operator whose application has been previously denied or whose indorsement was not issued, renewed or was revoked before the expiration of three years, provided:

(a) The applicant or indorsee submits a petition explaining each and every reason why the applicant or indorsee should receive an indorsement; and

(b) The applicant or indorsee files a completed application with the petition and pays the appropriate fees.

(5) As used in section (4) of this rule, "good cause" means an excusable mistake or a circumstance beyond a person's control.

(6) The commissioner shall grant or deny the petition referred to in section (5) of this rule, and in so doing shall consider the following factors:

(a) The magnitude and seriousness of the violation or violations which led to the denial, refusal to issue or renew or revocation of the indorsement;

(b) The petitioner's past history in taking all necessary measures to prevent or correct violations of statutes or rules;

(c) The petitioner's other prior violations of the statute or rules, if any;

(d) Other matters which indicate to the commissioner that the petitioner is not likely

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

to violate ORS 658.705 to 658.850 and these rules in the future.

(7) Nothing in this rule shall preclude the commissioner from imposing a civil penalty in lieu of denying or refusing to issue or renew an application or in lieu of suspension or revocation of an indorsement.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

**Emergency Suspension of License
Indorsement**

839-014-0500

**Immediate Suspension or Refusal to Renew
a License Indorsement; Notice of
Opportunity for Hearing; Service**

(1) If the bureau finds there is a serious danger to the public health or safety, it may immediately suspend or it may refuse to renew a license indorsement. For purposes of this rule, such a decision is referred to as an emergency suspension order. An emergency suspension order is a written order which is not a final order under ORS Chapter 183. An emergency suspension order is not an order in a contested case and may be issued without notice or an opportunity for a hearing as required for contested cases under ORS Chapter 183.

(2)(a) Except where the danger to the public health or safety is so imminent that opportunity for the licensee to object under section (3) of this rule is not practicable as determined by the bureau, the bureau shall provide the licensee with notice and

opportunity to object prior to issuing the emergency suspension order. For purposes of this rule, this notice is referred to as a pre-suspension notice;

(b) The pre-suspension notice shall:

(A) Specify the acts of the licensee and the evidence available to the bureau which would be grounds for revocation, suspension or refusal to renew the license under the bureau's usual procedures;

(B) Specify the reasons why the acts of the licensee seriously endanger the public's health or safety;

(C) Identify a person in the bureau authorized to issue the emergency suspension order or to make recommendations regarding the issuance of the emergency suspension order.

(c) The bureau may provide the pre-suspension notice to the licensee in writing, orally by telephone or in person, or by any other means available to the bureau;

(d) Where the pre-suspension notice is given orally, the bureau subsequently shall provide the licensee with a written copy of the notice.

(3) Following the pre-suspension notice, the bureau shall provide the licensee an immediate opportunity to object to the bureau's specifications provided in the pre-suspension notice before a person authorized to issue the emergency suspension order or to make recommendations regarding the issuance of the emergency suspension order.

(4)(a) When the bureau issues the emergency suspension order, the bureau shall serve the order on the licensee either personally or by registered or certified mail;

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

(b) The order shall include the following statements:

(A) Those required under ORS 183.415(2) and (3);

(B) That the licensee has the right to demand a hearing to be held as soon as practicable to contest the emergency suspension order;

(C) That if the demand is not received by the bureau within 90 days of the date of notice of the emergency suspension order the licensee shall have waived its right to a hearing under ORS Chapter 183;

(D) The effective date of the emergency suspension order;

(E) The specifications noted in subsection (2)(b) of this rule;

(F) That with the agreement of the licensee and the bureau the hearing opportunity on the emergency suspension order may be combined with any other bureau proceeding affecting the license. The procedures for a combined proceeding shall be those applicable to the other proceeding affecting the license.

(5)(a) If timely requested by the licensee pursuant to subsection (4)(b) of this rule, the bureau shall hold a hearing on the emergency suspension order as soon as practicable;

(b) At the hearing, the bureau shall consider the facts and circumstances including, but not limited to:

(A) Whether at the time of issuance of the order there was probable cause to believe from the evidence available to the bureau that there were grounds for revocation, suspension or refusal to renew the license under the bureau's usual procedure;

(B) Whether the acts or omissions of the licensee pose a serious danger to the public's health or safety;

(C) Whether circumstances at the time of the hearing justify confirmation, alteration or revocation of the order;

(D) Whether the bureau followed the appropriate procedures in issuing the emergency suspension order.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 658.705 - ORS 658.850

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

**Access to Telephone in Farm-Worker
Camp**

839-014-0600

Definitions

As used in ORS 659.285(3) and in OAR 839-014-0600 to 839-014-0630, unless the context requires otherwise:

(1) "Emergency" means circumstances in which the life, health, safety or property of a person, or of a member of a person's immediate family, is threatened with imminent harm, and shall include any instance in which a reasonable person would seek the immediate assistance of medical, law enforcement or emergency personnel.

(2) "Farm-worker camp operator" means any person who operates a farm-worker camp, notwithstanding the provisions of OAR 839-014-0035(8).

(3) "Operating telephone" means a telephone for the purpose of communicating with persons outside the farm-worker camp and over which information may be given and

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

received at the time it is intended to be given or received.

(4) "Owned or controlled" includes sufficient ownership or control to affect the terms and conditions of occupancy of the housing.

(5) "Pay telephone" means a telephone which is operated by use of coins or credit card. "Pay telephone" does not include a telephone normally used by the employer for the employer's private use.

(6) "Reasonable access" means access to a telephone at any time the employee indicates that an emergency exists and that a telephone is needed to communicate with any person for the purpose of dealing with the emergency. A reasonably accessible telephone must be located at the housing or within one tenth of one mile from the housing.

(7) "Reasonable opportunity for private use" means that workers are provided access to a telephone which can be used by them under circumstances in which their conversation cannot be overheard or monitored by the employer or by any other person, and at times of the day and week when they are not working, and during which they can conduct personal business. If the telephone is not located at the site of the housing, reasonable opportunity for private use includes posting at the housing in view of the workers, in the language used to communicate with the employees, a notice containing directions to the telephone and any conditions on use or availability of the telephone.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 659.280 - ORS 659.295

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0610

Emergency Access to Telephone

(1) When employees occupy farm-worker housing that is owned or controlled by the employer, the employer shall ensure that employees occupying the housing have reasonable access to an operating telephone at any time for emergency use. The telephone may be a pay telephone, at the discretion of the employer.

(2) Employers shall allow employees access to a telephone pursuant to the provisions of this rule, upon request of the employee.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658, ORS 659.297(9) & ORS 962

Stats. Implemented: ORS 659.285(3)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90

839-014-0620

Other Access to Telephone

(1) When employees occupy housing that is owned or controlled by the employer, the employer shall ensure that employees occupying the housing have reasonable access to an operating telephone for the private use of the employees. The telephone must be located within a two mile radius of the farm worker housing as measured by the most direct route by road or foot path from the housing to the place where the telephone is located.

(2) When the telephone designated by the employer for personal use of the

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

employees is located in the employer's residence or place of business, the employer may establish reasonable rules for the private use of the telephone by the employees. If the employer establishes such rules, the employer shall post a copy of the rules in a conspicuous place where all occupants can easily view them. The rules established by the employer shall be in English and in the language used by the employer to communicate with the employees.

(3) If a dispute arises regarding the terms of access established by the employer, the or the court if a private action has been filed, shall determine whether the terms of access to the telephone are reasonable.

(4) In making a determination, the commissioner will consider:

(a) Any circumstances presented by the employer in support of the employer's position;

(b) Any circumstances presented by the employee in support of the employee's position;

(c) The number of employees occupying the housing;

(d) The location of the housing;

(e) Any other relevant information.

Stat. Auth.: ORS 164, ORS 165, ORS 651, ORS 658 & ORS 962

Stats. Implemented: ORS 659.280 - ORS 659.295

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BL 1-1996, f. & cert. ef. 1-9-96

839-014-0630

Waiver from Telephone Requirement

(1) An employer may request a waiver from the requirements of ORS 659A.153(3) and these rules. Prior to the granting of any

request for waiver the employer must demonstrate to the Commissioner that:

(a) Compliance with the statute and rules would constitute an unreasonable hardship for the employer; and

(b) The employer meets any and all requirements of the Division for an emergency medical plan.

(2) Persons desiring a waiver, may apply to the Commissioner on a form prepared by the Bureau. The completed waiver application form shall be submitted to the Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, N.E., Bldg. E-1, Salem, OR 97305.

(3) Persons desiring to obtain a waiver must submit, with the application, a copy of the emergency medical plan, which meets the requirements of the rules of the Division.

(4) In determining what circumstances constitute an unreasonable hardship the Commissioner shall consider the following:

(a) Any circumstances presented by the employer in support of the application;

(b) The number of employees occupying the housing;

(c) The location of the housing;

(d) The length of time the housing is intended to be occupied;

(e) Any other relevant information.

(5) In considering the request for the waiver the Commissioner shall consider:

(a) The history of the employer in complying with the emergency medical plan;

(b) Any other relevant information.

(6) The Commissioner may grant the waiver request when the Commissioner determines that the provisions of section (1)

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 014
2008 EDITION

Rules Regulating Farm Worker Camp Operations

of this rule are met. The Commissioner may specify any conditions on approval of the request. If the request is denied, the Commissioner shall state each reason for the denial.

Stat. Auth.: ORS 164, 165, 651, 658, 659.285(3) & 962

Stats. Implemented: ORS 659.285(3)

Hist.: BL 2-1990, f. & cert. ef. 3-1-90; BLI 30-2005, f. 12-29-05, cert. ef. 1-1-06