

**SPECIAL PROCEDURES**

**LABOR CERTIFICATION PROCESS FOR**

**SHEEPHERDERS AND GOATHERDERS**

**UNDER**

**THE H-2A PROGRAM**

## **Part I: Procedures Applicable to All Shepherd and Goatherder Applications**

Except as otherwise provided for in these special procedures, the basic H-2A regulations at 20 C.F.R. Part 655, Subpart B, and the H-2A operating guidelines in ETA Handbook No. 398 apply to shepherd applications. These procedures apply as well to goatherders attending goats grazing on the range, and except as otherwise provided, references to sheep apply to goats as well. They do not apply to sheep and goat ranch hands who would be classified as "Farmworker, Livestock," 410.664-010 (DOT)

### **A. Filing of Applications**

The filing procedures in 20 C.F.R. § 655.101 apply to an application which is being submitted for the purpose of certifying a job opportunity which is vacant, (an "initial" certification), and to an application being submitted for the purpose of "renewing" a certification for a position which is encumbered by a nonimmigrant foreign worker completing the first or second year of a planned 3-year work period with an employer (a "renewal" certification).

Exception: The filing procedure for the Western Range Association is an exception to this process in that "master" applications and job orders are used. See Part II, Section C.

## **B. Contents of Job Offers to U.S. and Foreign Workers**

### **1. Job Specifications**

As a general rule, the job specifications in Item No. 13 on the ETA 750 and Item No.11 on the Form ETA-790 should be based on the description in the Dictionary of Occupational Titles (D.O.T.) for "shepherd (agric.)," 410.687-022 and "goatherder (agric.)," 410-687-014. Based on current practices in the industry, the following would be the standard job description:

Attends sheep and/or goat flock grazing on range or pasture: Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. May examine animals for signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking and shearing. May feed animals supplementary feed. May perform other farm or ranch chores related to the production and husbandry of sheep and/or goats on an incidental basis.

Employers who wish to supplement this description with additional duties which are required due to business necessity may do so on a case-by-case basis, with the review and approval of the Regional Office. In addition, Regional Offices may amplify this job description if it is believed

additional information, such as size of flocks (open range bands of sheep are often 1,000 head and up), necessity to use pack and saddle horses to reach range, and climatic conditions, is needed in order to provide a more comprehensive picture for recruitment purposes.

## **2. Hours**

The description of anticipated hours of work in Item No. 9 on ETA-790 must show "on call for up to 24 hours per day, 7 days per week." This will exempt employers from those requirements in 20 C.F.R. § 655.102(b) (7) and (8) which require the recording and reporting of hours offered and worked.

## **3. Experience**

The job offer may specify that applicants possess at least 1 - 3 months experience as shepherders or in similar occupations involving the range tending and production of livestock. This is consistent with "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles," Part A. It is acceptable for job offers to state that one month summer herding and one month winter herding experience is desirable, but this cannot be required.

## **4. References**

An H-2A employer may require an applicant to provide the name, address, and telephone number of a previous employer or other qualified individual who can serve as a reference about an applicant's experience in attending sheep or goats. However, a requesting employer's difficulty or delays in contacting a previous employer or other reference will not be considered a legitimate reason for deferring a decision on hiring or refusing to hire an applicant who is otherwise considered qualified and available, unless the applicant provided an inaccurate or falsified name, address or telephone number of a previous reference. Applicants who provide satisfactory reference information will be considered available for purposes of making a labor certification determination.

## **5. Period of Employment and Worker Contract**

The total period of employment (Item No. 5 on Form ETA-790) must be for less than 1 year. The Regional Office cannot grant an H-2A labor certification for a period of time longer than 1 year minus 1 day.

Each shepherd (goatherder) employer must offer all domestic hired shepherders (goatherders) a contract which has a duration of employment period identical to the one on the employer's job order which the Regional Office used for labor certification determination purposes, unless the employer chooses to utilize the job order itself for this purpose, as the regulations permit. Employers may, however, negotiate a longer-term contract with U.S. workers after the U.S. workers arrive at the job site, provided that all the other terms and conditions in the job order are

not changed without prior approval from the Regional Office.

When a longer term contract is negotiated with a U.S. worker, the employer is not relieved of the responsibility for reimbursement to the worker for travel and subsistence expenses incurred in getting to the job site which were advanced by the employer and subsequently withheld from the worker's pay until 50% of the original contract period elapsed. These payments must be made to the U.S. worker at the 50% completion point of the original period of employment (about 6 months). The employer also is responsible for "return" transportation and subsistence expenses if the U.S. worker successfully fulfills his/her obligations under the original terms of employment for less than 1 year. However, such payment does not actually have to be made to the U.S. worker until the worker and the employer sever their employer/employee relationship, which will occur at a point in time subsequent to the end of the original period of employment when a longer term contract is negotiated. Successful completion of the "original" contract or job order entitles the worker to return transportation and subsistence regardless of performance under a "renewal" or extended contract.

Employers may negotiate longer term contracts (up to 3 years) with foreign workers provided that any contracts of a year or longer are expressly conditioned upon renewal of certification by DOL. In the event certification renewal is not obtained, the contract will be construed as being effective for the period of the initial certification, and the employer is liable for return transportation and subsistence after the worker completes employment for the initial certification period. The 3/4 guarantee for individual employers is based on the 1 year contract, as is the requirement for transportation reimbursement at 50% of the contract period.

Shepherder (goatherder) employers (except for WRA members) must be able to make available a copy of each worker/employer contract or the job order itself, for inspection by Employment Standards Administration, Wage and Hour compliance officers responsible for enforcing contractual obligation aspects of the H-2A program.

## **6. Wages**

Employers requesting H-2A certification for shepherders and goatherders must offer U.S. and foreign workers, as a minimum the highest of the following: the prevailing wage rate for the occupation in the State as determined by the SESA prevailing wage survey and verified by the National Office, or a special monthly Adverse Effect Wage Rate (AEWR) established by the National Office, or the legal federal or state minimum wage rate. Workers must be paid twice monthly in accordance with the frequency of pay requirement at 20 C.F.R. § 655.102(b) (10), unless the employer/employee mutually agree to a monthly payment arrangement, and this is reflected in the contract. Employers may offer and pay wages higher than the established minimum depending upon experience and longevity as long as the same wage levels are offered to both foreign and U.S. workers.

### **Procedures for Setting Wages**

SESAs should conduct prevailing wage surveys and submit them to the National Office by May 15<sup>th</sup> each year. The National Office will review and verify the findings, and communicate them to the Regional Offices by June 1<sup>st</sup>. The Regional Offices will publicize the new rates and send copies to the Western Range Association, Mountain Plains Association, and independent ranchers who participate in the H-2A program immediately upon receipt. The rates will become effective July 1<sup>st</sup>.

Prevailing wage surveys conducted by SESAs should be performed in accordance with the procedures set forth in the Forms Preparation Handbook, ETA Handbook No. 385, Pages 1-111 through 1-143, except that the SESA should not devote time distinguishing between In-State and Inter-State workers. Since the shepherd occupation is a year round job, all herders can legitimately be considered In-State after 6 months on the job and attempts to distinguish between In-State and Inter-State are largely artificial. If the SESA gets specific information that appropriately characterizes a herder as Inter-State, such herder should be listed in Column IV of the ETA 232. Otherwise, all herders should be listed in Column III.

SESAs should prepare the ETA-232 Report (wage surveys) on all domestic workers included in the survey according to ETA Handbook No. 385 instructions. A summary data sheet should be attached to the ETA-232 Report showing the number of domestic workers listed in Section 4, Columns II, III and IV on the ETA-232 form who have been reported by survey respondents or otherwise determined by the SESA to have received specific benefits, free housing and/or free board. This must be done for each separate wage rate listed on separate lines in Section 4, Column I. This will be used by the National Office in connection with the establishment of prevailing, common and normal practices which apply both to H-2A and non-criteria Intra- and Inter-State Orders.

For example, a completed ETA-232 form might show the following array:

<u>RATE</u>	<u>NO. OF U.S. WORKERS</u>		
I	TOTAL	INSTATE	INTERSTATE
TOTAL	II	III	IV
\$1,000 Month	1	0	1
950 Month	1	0	1
800 Month	2	1	1
750 Month	9	9	0
725 Month	3	3	0
700 Month	1	1	0
675 Month	2	2	0
650 Month	7	7	0

In the proceeding example, an acceptable summary attachment might show the following:

#### **BENEFITS PROVIDED TO WORKERS**

<b>SUMMARY</b>	<b>TOTAL WORKERS</b>	<b>NO-COST HOUSING</b>	<b>FREE BOARD</b>	<b>OTHER BENEFITS</b>
Wage Rate	26	23	22	
\$1,000 Month	1	0	0	
950 Month	1	0	0	
800 Month	2	1	1	
750 Month	9	9	9	
725 Month	3	3	3	
700 Month	1	1	1	
675 Month	2	2	1	
650 Month	7	7	7	

In the above example, the correct wage determination would be \$750 a month in accordance with the 51 percent rule as outlined in the ETA Handbook 385, page 1-117.

In most instances, the results of the State prevailing wage survey will be used to establish the State prevailing wage. The only exception to this rule will be cases where modifications to ETA Handbook No. 385 procedures are necessary to compensate for inadequate sample sizes. In the event of inadequate sample sizes, as determined by the National and Regional Offices, every attempt will be made to establish a prevailing wage by using other comparable information, e.g., utilizing data from adjoining areas or States, merging sheepherder (goatherder) data from several States or using past survey data for sheepherders (goatherder) in that State. If inadequate sample sizes cannot be compensated through such practice (no relevant) data in an adjoining wage reporting area or no relevant data in the previous year), then consideration should be given to merging sheepherder (goatherder) data across States to create regional prevailing wages or to surveys of comparable occupations in the same State. When regional prevailing wages are contemplated, consideration may be given to the regional groupings of States used by the U.S. Department of Agriculture when it conducts its quarterly farm wage surveys.

The determination of legal status may be affected by advising the survey respondent providing data to distinguish between those workers for whom the Form I-9 indicates they are U.S. citizens, permanent legal residents, or the recipient of temporary legal work authorization (other than an H-2A visa). (Note: It is not necessary for the survey interviewer to actually inspect the Form I-9.) If a mailed questionnaire is used to collect data, it must contain such instructions regarding the worker's legal status. Any worker personally interviewed to obtain data must similarly fall within the covered categories. However, in no event should survey respondents or workers be asked by SESA staff to present any documentation to support a claim of legal work status.

## **7. Board**

All H-2A sheepherder (goatherder) employers must offer their U.S. and foreign workers free food. Board arrangements may involve the provision of three prepared meals a day when workers are in camp or free and convenient cooking facilities and provision of food for the workers to prepare themselves while in camp or on the range.

## **8. Positive Recruitment Plan**

All sheepherder (goatherder) employers are exempt from the requirement to submit a positive recruitment plan at 20 C.F.R. § 655.102(d). However, the Regional Office, with National Office concurrence, may require special positive recruitment efforts in accordance with 20 C.F.R. § 655.105(a) if it is determined that there are a significant number of able and qualified U.S. workers, who, if recruited, would likely be willing to make themselves available for work at the time and place needed.

## **9. Advance Transportation and Subsistence Costs**

All sheepherder (goatherder) employers must offer to provide advance transportation and

subsistence costs to workers being recruited. Determinations on advance transportation and subsistence matters shall be made in accordance with 20 C.F.R. § 655.102(b) (5).

### **10. Housing**

All shepherd (goatherder) housing is governed by the procedures presented in Part III.

### **11. H-2A Requirements for All Employers**

All shepherd (goatherder) employers must comply with the H-2A regulations provisions regarding the payment of a fee for granted certifications (20 C.F.R. § 655.103(h)) and proof of workers compensation or comparable insurance (20 C.F.R. § 102(b) (2)). The fee payment requirement applies to "renewal" as well as initial applications.

#### **C. Regional Office Certification Determinations**

The Regional Office may render a certification determination on shepherd (goatherder) applications earlier than the normal **30** days before date of need deadline for such determinations as prescribed in the H-2A regulations. In exercising this discretion, the Regional Office will take into consideration past and continuing recruitment efforts and SESA-provided information (general or specific) on U.S. worker availability.

## **Part II: Procedures Applicable Only to Western Range Association (WRA) Applications**

### **A. WRA Status**

The WRA is an association of sheep ranchers which acts as a joint employer for H-2A program purposes with its rancher members. It represents the majority of employers of shearers who participate in the H-2A program. The WRA has provided appropriate Regional Offices with a statement setting forth details of its joint employer association relationship with its members, including the specific tasks and responsibilities it performs and assumes on behalf of the individual rancher members. The WRA operates as a joint employer solely for H-2A program purposes.

Regional Offices which have need for clarification of the role of the WRA should contact the WRA directly by letter or telephone. The address and telephone number is:

Western Range Association  
6060 Sunrise Vista Drive, Suite 2400  
Citrus Heights, California 95610-7057  
(916) 962-1500

### **B. Advertising**

The WRA will satisfy the advertising requirements of 20 C.F.R. § 655.103(d) (2) by placing advertisements once each quarter of the calendar year in newspapers of general circulation or trade journals in areas that the Regional Office determines to be potential sources of individuals interested in shepherd jobs. The WRA may also conduct radio advertising in areas determined by the Regional Office.

**At least once a year, in accordance with a schedule to be established, the WRA will submit a plan that sets forth the advertising agenda for the next year. This plan will be reviewed for sufficiency by the Regional Office. The Regional Office has the discretion to request additional or other methods of advertising if the Certifying Officer determines, based on his/her knowledge of the labor market, that U.S. workers are available. The Regional Office, upon receipt of the initial application, will assess the advertising plan to ascertain if the advertising agenda has been followed.**

In the event the Regional Office and the WRA are not able to agree on the adequacy of the advertising plan, the WRA may request the National Office to intervene and resolve any disputes. Such requests must be in writing and be addressed to the Administrator, U.S. Department of Labor, Office of Workforce Security. The decision of the Administrator in such matters will be binding on the parties.

Advertisements shall generally conform to the language in the following format:

Range Shepherders (some experience needed). Immediate Openings Available. Attends sheep grazing on range or pasture. Herds sheep using trained dogs. Guards flock from predators and from eating poisonous plants. May examine animals for signs of illness and administer vaccines, medications and insecticides. May assist in lambing, docking and shearing. May perform other ranch duties incidental to goat/sheep production. Large flocks with single/pair herder. Free food, housing, tools, supplies and equipment provided. May be on call 24 hours per day, 7-days per week. Minimum 11-month employment. Employment for 3/4 of workdays guaranteed. Workers compensation provided. Transportation to job and subsistence provided; deducted from wages until 50% of employment contract completed, then paid to worker. Return transportation provided at end of employment contract. A reference is required. Employment available in several Western States including \_\_\_\_\_ (States)\_\_\_\_\_. Minimum salary varies according to State, from \_\_\_\_\_ to \_\_\_\_\_ per month. Contact (Local Office), (Phone No.) \_\_\_\_\_ or your nearest local office of the \_\_\_\_\_ (SESA)\_\_\_\_\_.

### C. Year Round, Open Job Orders

Because of the historic shortage of domestic shepherders, the WRA has agreed to place with its rancher members any qualified U.S. worker who applies for a WRA job opening at any time of the year that such a qualified worker applies for shepherding employment. An open job order will be filed with Regional Offices and SESAs for this purpose.

**The WRA will prepare and submit a "master" job order (Form ETA-790) to appropriate Regional Offices and the appropriate centralized H-2A processing location within the state of intended employment once each calendar year in accordance with a schedule to be established. This "master" job order will comply with all the requirements of 20 C.F.R. Part 653, Subpart F, and 20 C.F.R. Part 655, Subpart B (unless otherwise provided for in this document). "Master" orders should also conform to the guidelines in the H-2A Program Handbook, ETA No. 398, P. 1-9, and have as attachments names, addresses and phone numbers of all individual rancher members of the WRA and rancher-specific job information, e.g., number of openings; directions to ranch headquarters location; and estimated dates of need.**

After these "master" orders are approved by the Regional Office, they will be distributed to all appropriate SESA local offices determined jointly by the Regional Office and the SESAs to be potential applicant holding offices. A copy of the approved "master" order will be returned to the WRA by the Regional Office. This procedure will be considered to comply with agricultural clearance order requirements at 20 C.F.R, Part 653, Subpart F, for WRA shepherd jobs only. If an interested applicant requests referral to a shepherding job from a local office where he/she is registered, and the WRA "master" order and attachments are not available at that office, that local office should contact the State office to secure a copy of the order before a referral is made.

The WRA must submit an ETA 750 form simultaneously to the RA and the centralized H-2A processing location within the state of intended employment no later than **45** days before each rancher's date of need setting forth the fact that a certification determination is requested no later than **30** days before the date of need for the specific ranchers. This will generate Regional Office certification determination activity which may include, at the discretion of the Regional Offices, securing reports from the WRA and SESAs on U.S. worker referrals.

The WRA may amend the "master" application on behalf of "new" employers or to show other changes in employer-specific needs at any time, subject to Regional Office approval.

#### **D. Referral Procedures**

A local office which locates and has for referral an available and qualified applicant should place a collect telephone call to the WRA central office at (916) 962-1500. This office will normally be open on weekdays from 8:00 a.m. to 4:30 p.m. Pacific time. The applicant interested in a shepherd job should be physically present in the local office for interviewing by telephone when such calls to the WRA are made. In the event it is not possible to arrange for a direct conversation between the applicant and the WRA on the initial contact, the local office should schedule a subsequent telephone interview at a time convenient for both parties.

The WRA will conduct a telephone interview with the applicant while the applicant is in the SESA office to verify that the applicant is qualified, willing and available, and to determine if there is a job opening in the geographic area of the applicant's choice. The WRA will have current information on job openings with its specific employer members, and will attempt to the maximum extent possible to place an applicant with a rancher member in the geographic area of his/her choice within 3 working days of the telephone interview.

If the applicant is determined to be qualified and the geographic assignment choice can be accommodated, the WRA, after verbal authorization from the specific employer, will make a hiring commitment for the rancher member who has the job opening in which the applicant will be placed, subject to confirmation of past employment history with an applicant's reference. Failure to verify an applicant's reference is not justifiable cause for refusing to hire a SESA-referred worker, unless false or incorrect reference information is involved. The WRA/applicant telephone interview after SESA screening will satisfy the applicant's interviewing responsibility.

The WRA also may have available information on job openings with non-WRA member sheep ranchers. This information will be made available to the applicant and to the SESA in the event the WRA is not able to readily accommodate the geographic assignment choice of the applicant. However, this will not preclude the applicant from choosing a different geographic area for WRA-member placement purposes or from deferring a job choice decision until an opening in the geographic area of choice becomes available with a WRA-member.

After the matters of geographic location/assignment and reference checks are resolved, the applicant-holding local office will confirm with the WRA that the applicant has been hired and will facilitate the arrangements necessary to ensure that transportation and subsistence are provided in advance to the worker by the WRA. For reporting purposes, the local office confirming the placement will serve as both applicant-holding and order-holding office.

The WRA will provide documentation related to U.S. worker referrals and interviews and the results of such actions to the Regional Office. Information regarding reasons for refusing to hire referred U.S. workers will be provided to the Regional Office as required by the Regional Office Certifying Officer.

At its discretion, the Regional Office may secure U.S. worker referral information for individual rancher certification determination purposes from SESAs. At least once each calendar year, the Regional Office will conduct analyses of SESA referral activity against WRA job openings and compare the information with WRA-supplied information in order to ensure continued program integrity.

When certifications are granted, the Regional Office will issue the certification jointly to both the WRA and to the individual rancher member(s).

## **E. Transfer of Workers**

### **1. Notifying Local Office**

The WRA may transfer a domestic or foreign sheepherder from one rancher-member to another rancher-member, but not to employers who do not belong to the WRA. Such transfers may be made at the WRA's discretion. When a worker objects to a transfer, the WRA will consider the worker's concerns and preferences. However, ultimate refusal on the part of a worker to a transfer may subject the worker to dismissal for a lawful, job-related reason, as provided for in DOL regulations.

In order to ensure that the employer to whom a worker is being transferred has suitable housing to accommodate the worker, the WRA shall notify the local office serving the area of the employer receiving the transferred worker of the planned transfer no less than 7 working days prior to the transfer. This will permit the local office to ascertain the availability and suitability of housing. If suitable housing is not available, the local office shall inform the WRA and the planned transfer shall be put in abeyance until: (1) the housing is determined by the local office to be acceptable; or (2) the WRA effects a transfer to another employer who has suitable housing.

### **2. Contractual Obligations**

The "new" employer assumes the existing obligations of the work contract entered into with the previous employer including a multi-year contract negotiated with the worker, and an amendment

to the existing contract will be made which reflects the new employer/employee relationship and will be on file in WRA's Office. WRA will maintain and make available for inspection a copy of all worker/employer contracts, and individual WRA members are relieved of this responsibility. If the worker is moved to another State with a different wage rate, the established wage rate for the "new" State applies. The WRA will amend the appropriate attachments to the "master" job order in order to reflect any changes in the employer's situation.

### **Part III: Mobile Housing for Range Shepherders**

#### **A. Procedures**

In accordance with regulations at 20 C.F.R. § 655.102(b)(1)(ii), standards in this section must be used in determining the adequacy of mobile housing for use on the range. Housing used exclusively at the ranch site is subject to the same standards as those for other agricultural workers at 20 C.F.R. §§ 654.400-654.417, see also 29 C.F.R. § 1910.142.

Both range and ranch site housing may be self-certified by an employer. Individual employers must submit a signed statement with the application for labor certification assuring that the housing is available, is sufficient to accommodate the number of workers being requested, and meets DOL standards.

SESAs must inspect at least one-third of such self-certified housing once a year, and develop a schedule of inspections which ensures that each employer's housing is inspected at least once every 3 years. These inspections may be performed either before or after a request is submitted for foreign shepherders. Before referring a worker who is entitled to such housing, the local office must ensure that the housing is available and has been inspected in accordance with the 3-year schedule. If a SESA determines that an employer's housing does not meet DOL standards, the Certifying Officer may require additional inspections as needed.

#### **B. Mobile Housing Standards**

##### **1. Housing Site**

Housing sites shall be well drained and free from depressions in which water may stagnate.

##### **2. Water Supply**

a. An adequate and convenient supply of water that meets standards of the State health authority shall be provided. The amount of water provided must be enough for normal drinking, cooking, and bathing needs of each worker.

b. Individual drinking cups shall be provided.

#### **C. Excreta and Liquid Waste Disposal**

1. Facilities shall be provided and maintained for effective disposal of excreta and liquid waste according to requirements of State health authority or involved Federal agency.

2. If pits are used for the disposal by burying of excreta and liquid waste, they shall be

kept fly-tight when not filled in completely after each use.

#### **D. Housing Structure**

1. Housing shall be structurally sound, in good repair, in sanitary condition and shall provide protection to occupants against the elements.
2. Housing, other than tents, shall have flooring constructed of rigid materials easy to clean and so located as to prevent ground and surface water from entering.
3. Each housing unit shall have at least one window which can be opened or skylight opening directly to the outdoors.
4. Tents may be used where terrain and/or land regulations do not permit use of other more substantial mobile housing which provides facilities and protection closer in conformance with the Department's intent.

#### **E. Heating**

1. Where the climate in which the housing will be used is such that the safety and health of a shepherd requires heated living quarters, all such quarters shall have properly installed, operable heating equipment which supplies adequate heat. In considering whether the heating equipment is acceptable, the RA shall first determine if the housing will be located in a National Forest Wilderness as specified in the Wilderness Act (16 U.S.C. §§ 1131-1136). Such a location has a bearing on the type of equipment practicable, or whether any heavy equipment is practicable. For example, Section 4 (c) of the Act (16 U.S.C. § 1133(c)) restricts certain motorized or mechanical transport and certain roads in wilderness areas. The U.S. Forest Service has regulations for this at 36 C.F.R. Part 293.

Aside from the above, other factors to consider in evaluating heating equipment are how severe the weather will be and the kinds of protective clothing and bedding made available to the herder. If the climate in which the housing will be used is mild and not reasonably expected to drop below 50 degrees Fahrenheit continuously for 24-hours, no separate heating equipment is required if proper protective clothing and bedding are available.

2. Any stoves or other sources of heat using combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. Portable electrical heaters may be used, and if approved by Underwriters' Laboratory, kerosene heaters may be used according to manufacturer's instructions.

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.

3. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or stove pipe 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. When a heating system has automatic controls, the controls shall be of the type which cuts off the fuel supply when the flame fails or is interrupted or whenever a predetermined safe temperature or pressure is exceeded.

#### **F. Lighting**

1. In areas where it is not feasible to provide electrical service to mobile shepherd housing, including tents, lanterns shall be provided (Kerosene wick lights meet the definition of lantern).

2. Lanterns, where used, shall be provided in a minimum ratio of one per occupant of each unit, including tents.

**G. Bathing. Laundry and Hand washing.** Movable bathing, laundry and hand washing facilities shall be provided when it is not feasible to provide hot and cold water under pressure.

**H. Food Storage.** When mechanical refrigeration of food is not feasible, the worker must be provided with another means of keeping food fresh and preventing spoilage, such as a butane or propane gas refrigerator. Other proven methods of safeguarding fresh foods, such as salting, are acceptable.

#### **I. Cooking and Eating Facilities**

1. When workers or their families are permitted or required to cook in their individual unit, a space shall be provided with adequate lighting and ventilation.

2. Wall surfaces next to all food preparation and cooking areas shall be of nonabsorbent, easy to clean material. Wall surfaces next to cooking areas shall be of fire-resistant material.

#### **J. Garbage and Other Refuse**

1. Durable, fly-tight, clean containers shall be provided to each housing unit, including tents, for storing garbage and other refuse.

2. Provision shall be made for collecting or burying refuse, which includes garbage, at least twice a week or more often if necessary. Refuse disposal shall conform to Federal, State or local law, whichever applies.

**K. Insect and Rodent Control**. Appropriate materials, including sprays, must be provided to aid housing occupant in combating insects, rodents and other vermin.

**L. Sleeping Facilities** Separate sleeping unit shall be provided for each person, except in a family arrangement. Such a unit shall include a comfortable bed, cot or bunk with a clean mattress. When filing an application for certification, the employer may request a variance from the separate sleeping units requirement allow for a second herder to temporarily join the herding operation. The employer must explain why it is impractical to set up a second unit. The second herder must provide his/her individual sleeping bag or bed roll. If this is impractical, the employer must supply a sleeping bag or bed roll.

**M. Fire, Safety and First Aid**

1. All units in which people sleep or eat shall be constructed and maintained according to applicable State or local fire and safety law.
2. No flammable or volatile liquid or materials shall be stored in or next to room used for living purposes, except for those needed for current household use.
3. Mobile housing units for range use must have a second means of escape. The second egress must be a window which can be easily opened, a hatch or other provision. It must be demonstrated that the herder would be able to crawl through the second egress without difficulty.
4. Tents are not required to have a second means of escape, except when large tents with walls of rigid material are used. A heater may be used in a tent if the heater is approved by a testing service, such as Underwriters' Laboratory, and if the tent is fireproofed.
5. Adequate fire extinguishers in good working condition and first aid kits shall be provided in the mobile housing.