

U.S.

● IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR §§ 655.100 – 655.185 and 29 CFR Part 501

GENERAL SUMMARY: Any farming establishment seeking certification to employ temporary foreign agricultural labor under the so-called "H-2A" program is required to circulate a formal job offer for U.S. workers starting no earlier than 75 days and no later than 60 days before the work is expected to begin. If the employer's H-2A application is later approved, the U.S. and foreign workers hired by the employer pursuant to the job offer must receive a written work contract specifying the benefits and conditions of employment. Both the job offer and the work contract must contain certain minimum standards and guarantees, including requirements related to housing.

SPECIFIC TERMS AND CONDITIONS

ASSURANCE OF COST-FREE HOUSING — Every employer applying for the use of foreign agricultural workers must assure the availability of housing for any worker who is not reasonably able to return to his or her own residence each day, at no charge to the worker. The employer's obligation to provide cost-free housing extends not only to the foreign workers admitted to the U.S. under the H-2A application (if approved), but also to those domestic workers recruited prior to approval of the application, and to any U.S. workers hired by the employer thereafter to perform the same services in the same area. Furthermore, when it is prevailing local practice to provide domestic farmworkers with family-type housing, family housing must be provided to those U.S. workers recruited in connection with an H-2A job offer who request such housing for themselves and their families.

HOUSING STANDARDS AND INSPECTION — Housing facilities owned or operated by the employer must be inspected and found in full compliance with applicable ETA or OSHA farmworker housing standards prior to occupancy, or the employer's H-2A application will be denied. At the employer's option, the employer may arrange to house the workers in rental units or public housing which meets local, state or federal standards, but any charges for the use of such facilities must be paid by the employer. Deposits on bedding or similar incidentals related to housing may not be assessed against the workers, and only under certain conditions may the employer require reimbursement from workers found responsible for damages to housing or facilities.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072)*. It is the duty of the Wage and Hour Division to enforce compliance with the mandatory work contract between H-2A employers and their foreign and U.S. workers, including the requirement to provide free worker housing. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. In general, each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010)*. It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the associated job offers comply with statutory requirements, including the offer of cost-free housing for the workers.

Connecticut

● LANDLORD-TENANT LAWS

STATUTORY CITATION: Conn. Gen. Stat. § 47a-30

GENERAL SUMMARY: The state landlord-tenant laws contain a provision granting farm employees certain rights with respect to employer-provided housing at the time of termination of employment.

SPECIFIC TERMS AND CONDITIONS: When a farmworker occupies a dwelling provided by the worker's employer and does not leave the premises whenever the employment ends or is terminated, the employer must give the worker at least 3 days' notice to leave, on a form prescribed by statute. If the worker fails to vacate the housing within the time period specified in the notice, a summary process action may be brought against the worker. At the summary process hearing, the court may take into account the worker's needs and grant a fair and reasonable stay of execution of eviction, for up to 15 days.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — A farmworker who is evicted or faced with imminent removal from an employer-provided housing unit contrary to these provisions may seek redress in civil court, by consulting a private attorney or public legal service provider.

Maryland

● FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 – 7-507

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, including the provision of worker housing facilities. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS: Prior to entry into Maryland with migrant agricultural workers for purposes of employment, or before recruiting migrant workers within the state, every farm labor contractor must disclose in writing the terms and conditions under which housing (if any) is to be provided to the workers, and the costs to be charged for its use. Whenever a contractor furnishes housing for migrant agricultural workers, either by agreement with an agricultural employer or agricultural association or otherwise, the contractor must ensure that the terms and conditions of occupancy are posted in a conspicuous place throughout the duration of the stay.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357). This agency is responsible for issuing certificates of registration to farm labor contractors who meet the prescribed registration requirements, and for enforcing compliance with the duties imposed by the registration law, including the housing-related provisions. Failure by a contractor to observe the conditions summarized above is grounds for suspension, revocation or refusal to renew the contractor's registration certificate, as well as assessment of civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Minnesota

● STATE LABOR LAWS (*MIGRANT LABOR RECRUITMENT*)

STATUTORY CITATION: Minn. Stat. §§ 181.85 – 181.91

GENERAL SUMMARY: The state labor statutes include protections for out-of-state migrant workers recruited for seasonal agricultural employment in Minnesota, including provisions related to housing.

SPECIFIC TERMS AND CONDITIONS

HOUSING DISCLOSURES — Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in any calendar year must, at the time of recruitment, furnish each worker with a bilingual statement indicating, among other things, whether or not housing will be provided. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

REQUIREMENT TO VACATE — A processor, as defined above, who recruits, employs and provides housing facilities to migrant workers, as defined above, may require any such worker to vacate the housing, but only after final payment of wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Using private legal counsel or a public legal service provider, a migrant worker aggrieved by a violation of these provisions may file a civil suit for damages and injunctive relief against the employer involved. A judgment in the worker's favor may include an assessment against the employer for actual damages suffered by the worker, or penalties ranging from \$50 to \$500, plus court costs and attorney's fees.

New York

● GENERAL LABOR LAWS (*FARM LABOR CAMP COMMISSARIES*)

STATUTORY CITATION: N.Y. Labor Law §§ 212-B – 212-C

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 197

GENERAL SUMMARY: Article 7 of the state labor laws includes provisions regulating the operation of farm labor camp commissaries, defined as places where goods are offered for sale or lease and which are operated at or in connection with a farm labor camp.

SPECIFIC TERMS AND CONDITIONS

PERMITS — No one may operate a farm labor camp commissary without a valid permit to do so issued by the state. The permit must be prominently displayed at the facility at all times.

POSTING OF PRICES — A permit-holder must keep posted in a conspicuous place at the commissary site the current prices of all goods (including meals) offered to consumers at the facility. Prices charged may not exceed the posted price.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).* The Department is responsible for issuing farm labor camp commissary permits and enforcing compliance with the duties and restrictions imposed on commissary operators. A violation of the statutory and regulatory provisions applicable to such outlets may result in suspension, revocation, or refusal to renew the permit, as well as prosecution of the operator on misdemeanor charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*