

● MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

STATUTORY CITATION: 29 USC §§ 1801 – 1872

RELATED REGULATIONS: 29 CFR Part 500

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act imposes a multitude of duties and restrictions on farm labor contractors, agricultural employers, agricultural associations and other entities, in part to curb chronic abusive employment practices detrimental to the agricultural labor force. In addition to addressing such issues as worker recruitment, transportation and wages, the Act contains explicit provisions regulating the safety and health of housing provided to migrant agricultural workers.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No facility or property may be occupied by any migrant agricultural worker unless a state or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards, and no person who owns or controls the housing may permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. If, however, a request for an inspection of the housing is made to the appropriate state or local agency at least 45 days before the date on which it is occupied and the agency has not conducted an inspection by then, the facility may be occupied without the certification.

COMPLIANCE BY HOUSING PROVIDERS — In general, any person who owns or controls a facility or real property used as housing for migrant agricultural workers is responsible for ensuring that the facility or property complies with applicable federal and state safety and health standards.

COMPLIANCE BY FARM LABOR CONTRACTORS — In their application for registration under the Act, farm labor contractors are required to identify each facility or property to be used to house any migrant farmworker. If a contractor owns or controls any such facility or property, there must be documentation submitted with the application showing that the housing has been certified for occupancy. A farm labor contractor may not house migrant farmworkers unless authorization to do so is indicated on the face of the registration certificate.

SPECIAL NOTES OR ADVISORIES

COMPLIANCE EXCEPTIONS — The obligation to comply with farm labor housing standards, and the prohibition against allowing occupancy without certification, do not apply to any person who, in the ordinary course of that person's business, regularly provides housing commercially to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

JOINT RESPONSIBILITY — If more than one person is involved in providing migrant worker housing (a farm labor contractor, for example, and a farm operator who uses the contractor's services and owns the housing where the contractor's crew members are living), both are legally responsible for ensuring that the housing meets applicable standards.

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 the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072)*. As the agency responsible for registration of labor contractors and for enforcing compliance with the Act, the Wage and Hour Division has authority to investigate complaints or suspected violations of the Act's housing provisions. The agency may suspend or revoke a contractor's registration certificate and may impose penalties on contractors, employers and housing operators who are found to have housed migrant agricultural workers in violation of the Act. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Both the Occupational Safety and Health Administration and the Employment and Training Administration administer farm labor housing standards and are cooperatively involved in the enforcement of these provisions.

PRIVATE CIVIL ACTION — Without regard to enforcement action by the U.S. Department of Labor, anyone who is aggrieved by a violation of the Act may file suit against the person or persons responsible in federal court, using a private attorney or a public legal service provider.