

2009 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Migrant Farm Labor Camps [Federal]¹

Fritz Roka, Michael Olexa, Katherine Smallwood, Leo Polopolus, and Carol Fountain²

Purpose

To provide federal standards for employer or farm labor contractor-provided housing for migrant farmworkers. Refer to FE405 for state regulations governing migrant labor housing.

Federal Regulations

There are two sets of federal regulations that apply to employer or farm labor contractor-provided housing for migrant workers. These are:

- The Department of Labor's (DOL) Employment and Training Administration (ETA) housing standards.

- The Occupational Safety and Health Administration's (OSHA) migrant farm labor housing regulations.

Federal agricultural labor housing standards apply only to housing and camps for migrant workers. Nonmigrant workers who permanently reside in housing provided by employers are not covered by these regulations.

Who Must Comply

The 500 man-day and family farm exemptions in the Fair Labor Standards Act (FLSA) and Migrant and Seasonable Agricultural Worker Protection Act (MSPA) do not apply to employers who house migrant farmworkers.

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 2. Fritz Roka, associate professor, Food and Resource Economics Department, University of Florida, Southwest Florida Research and Education Center, Immokalee, FL; Michael Olexa, professor, Food and Resource Economics Department, University of Florida, Gainesville, FL; Katherine Smallwood, student, Levin College of Law, University of Florida, Gainesville, FL; Leo Polopolus, professor emeritus, Food and Resource Economics Department, University of Florida, Gainesville, FL; and Carol Fountain, editor, Food and Resource Economics Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL.

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Housing one or more migrant workers requires compliance with either ETA or OSHA standards, depending on when the housing was built.

Housing built to the earlier, less restrictive ETA standards may be operated under those standards until it undergoes major modifications. Migrant labor housing built after April 3, 1980, must comply with OSHA standards.

Under MSPA, all migrant housing must have a pre-occupancy inspection and is subject to inspections by the Wage and Hour Division, regardless of whether or not the housing is a condition of employment.

Housing Inspections

Agricultural employers using the U.S. Employment Service's interstate recruitment service (Jobs and Benefits Center) must have housing inspected and approved before completion of the worker's application.

Under MSPA and if a request for inspection is made at least forty-five days prior to the date of occupancy and the agency has not conducted an inspection, migrant workers may occupy the housing unless prohibited by state law.

Occupancy after the failure of an agency to perform a timely inspection does not relieve the housing provided from having to meet all applicable federal and state safety and health standards.

Inspections of migrant labor housing (delegated to the Wage and Hour Division) are done post-occupancy in response to complaints following a report of a fatality or injury or on a random basis. OSHA does not license migrant housing.

The three DOL agencies responsible for enforcement of housing standards coordinate their inspections. ETA, through state employment service agencies, conducts pre-occupancy inspections of facilities on farms it supplies with workers.

The Wage and Hour Division inspects migrant housing owned or operated by crew leaders which has not already been inspected by ETA.

OSHA inspects those camps not covered by the other two agencies.

MSPA requires that the housing occupancy certificate be posted in a prominent location, in addition to DOL's Form WH-521, *Housing Terms and Conditions*.

Employer Responsibilities

Employers must meet minimum federal, state, and local housing standards. ETA and OSHA standards specify requirements for:

- Housing site.
- Shelter and housing.
- Water supply.
- Toilet facilities.
- Sewage disposal.
- Laundry, handwashing, and bathing facilities.
- Electrical lighting.
- Refuse and garbage disposal.
- Cooking and eating facilities.
- Screening and insect and rodent control.
- Fire, safety, and first aid facilities.
- Reporting of communicable diseases.

Note: Check housing frequently during occupancy to make sure it has not fallen out of compliance due to worker neglect or other reasons.

DOL's Wage and Hour Division will conduct a pre-occupancy inspection of migrant farmworker housing upon written request. Inspection is required to receive a certificate of occupancy. Contact your local Wage and Hour Division office.

(See EDIS document FE406, *Migrant and Seasonal Agricultural Worker Protection Act (MSPA) [Federal]*.)

Related Information

- Part 654, Subpart E, Housing for Agricultural Workers, Employment and Training Administration, Federal Register, March 4, 1980, 14180-14186
- General Industry, OSHA Safety and Health Standards (29 C.F.R. 1910), OSHA 2206 (Rev. January 1976), U.S. Department of Labor, Occupational and Safety Administration, 1971
- Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) 29 U.S.C. 1801
- Regulations, Part 500: Migrant and Seasonal Agricultural Worker Protection, WH Publication 1455 (Revised 12/84), U.S. Department of Labor, Wage and Hour Division

Responsible Agency

- U.S. Department of Labor
- Occupational Safety and Health Administration (OSHA)
- Employment and Training Administration (ETA)
- Employment Standards Administration (ESA)

Area and Field Offices

For OSHA offices, see *OSHA* section.

For pre-occupancy inspections and compliance with ETA standards, contact

U.S. Department of Labor

ESA Wage and Hour Regional Office

61 Forsyth Street, Room 6M12

Atlanta, GA 30303

(404) 562-2092

<http://www.doleta.gov/regions/reg03>

Regional offices can be found in the telephone directory under

- U.S. Government
- U.S. Department of Labor
- Wage and Hour Division

(For additional contact information, see EDIS document FE406, *Migrant and Seasonal Agricultural Worker Protection Act (MSPA)* [Federal].)