

2017 Migrant Housing Act Enforcement Report

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Receiving Entities:

Chairs, Senate Appropriations Committee on Agriculture, Natural, and Economic Resources

Chairs, House Appropriations Committee on Agriculture, Natural, and Economic Resources

Chairs, Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources

Fiscal Research Division

Submitting Entity:

The N.C. Department of Labor

N.C. Department of Labor – Agricultural Safety and Health Bureau
Annual Report on Migrant Housing Inspections and Enforcement
Calendar Year 2017 (January through December)

I. Inspection Statistics

Preoccupancy Inspection Certificates Issued	1,789
Operators Achieving 100% Compliance	1,169
Total Number of Worker Beds	22,156
Post Occupancy Inspections Conducted	100

II. Number and Type of Citations and Fines Issued

NCDOL Agricultural Safety and Health Bureau - Standards Cited			
Standard Violated	Definition of Standard	Total Violations	Final Penalty Amount
95.129(1)	Rights and duties of employer: General duty of employer to provide a safe and healthful work environment for employees free from recognized serious hazards.	3	\$48,000.00
95.225(f)	All migrant housing shall comply with the standards regarding fire safety for migrant housing as adopted by the Commission for Public Health and in effect on January 1, 1989.	3	\$1,790.00
95.225(g)(1)	Food preparation facilities and eating areas within migrant housing facilities shall be provided and maintained in a clean and sanitary manner.	2	\$1,170.00
95.225(g)(2)	A kitchen facility shall be provided with an operable stove with at least one burner per five people, and in no event less than two burners; an operable refrigerator with .75 ft ³ per person; a table; a sink with running hot and cold water.	2	\$877.50
95.225(g)(3)	Surfaces with which food or drink come in contact shall be easily accessible for cleaning, and shall be nontoxic, resistant to corrosion, nonabsorbent, and free of open crevices.	2	\$0.00
95.226(a)	Except as provided in subsection (f) of section 95.226, every operator shall request a preoccupancy inspection at least 45 days prior to the anticipated date of occupancy by applying directly to the Department of Labor of North Carolina or the local health department.	6	\$8,200.00

95.226(d)	Except as provided in subsections (e) and (f) of this section, migrant housing facilities are only to be occupied if they have been certified by the Department of Labor of North Carolina or the United States Department of Labor, except on provision basis if the operator applied for a preoccupancy inspection at least 45 days prior to occupancy.	5	\$4,500.00
95.226(e)	If an operator has applied for an inspection pursuant to this Article and one or more migrants arrive in advance of the arrival date stated in the application, the operator shall notify the Department of Labor of North Carolina within two working days of the occupancy of the migrant housing.	1	\$175.00
1904.39(a)(2)	Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, the employer must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.	2	\$4,000.00
1910.142(a)(3)	The grounds and open areas surrounding shelters must be maintained in a clean and sanitary condition.	4	\$1,050.00
1910.142(b)(1)	Shelters must be constructed in a manner that will provide protection from the elements.	2	\$450.00
1910.142(b)(2)	Each sleeping room must have 50 square feet of floor space per person. At least a 7-foot ceiling shall be provided.	1	\$600.00
1910.142(b)(3)	Standards for sleeping facilities (focusing on the placement and style of beds); includes a provision that sleeping facilities must provide storage for personal items and clothing.	3	\$0.00
1910.142(b)(4)	The floors of each shelter shall be constructed of wood, asphalt, or concrete. Wooden floors shall be of smooth and tight construction. The floors shall be kept in good repair.	1	\$2,100.00
1910.142(b)(7)	All living quarters shall be provided with windows the total of which shall be not less than 1/10 of the floor area. At least 1/2 of each window shall be so constructed that it can be opened for purposes of ventilation.	1	\$0.00
1910.142(b)(8)	All exterior openings must be screened with 16-mesh material and all screen doors must be equipped with self-closing devices.	4	\$0.00
1910.142(b)(11)	All heating, cooking, and water heating equipment shall be installed in accordance with state and local ordinances, codes, and regulations governing such installations. If a camp is used during cold weather, adequate heating equipment shall be provided.	1	\$450.00

1910.142(c)(1)	An adequate and convenient water supply, approved by the appropriate health authority, must be provided in each camp.	6	\$900.00
1910.142(d)(2)	Toilets must be accessible without having to pass through any sleeping room. Toilet rooms shall have a window not less than 6 square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with 16-mesh material. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for other than toilet purposes.	1	\$0.00
1910.142(d)(10)	Toilets shall be kept in a sanitary condition and cleaned at least daily.	1	\$0.00
1910.142(f)(1)(iii)	A laundry tray or tub must be provided for every 30 persons.	3	\$0.00
1910.142(f)(2)	Floors of laundry, handwashing and bathing facilities shall be of smooth finish but not slippery materials; they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be coved. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.	1	\$0.00
1910.142(f)(3)	There must be an adequate supply of hot and cold running water and facilities for heating water must be provided.	5	\$900.00
1910.142(f)(5)	Facilities for drying clothes shall be provided.	1	\$0.00
1910.142(g)	Where electric service is available, each habitable room in a camp shall be provided with at least one ceiling-type light fixture and at least one separate floor- or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate shall contain at least one ceiling- or wall-type fixture. Light levels in toilet and storage rooms shall be at least 20 foot-candles 30 inches from the floor. Other rooms, including kitchens and living quarters, shall be at least 30 foot-candles 30 inches from the floor.	1	\$0.00
1910.142(h)(1)	Fly-tight, rodent-tight, impervious, cleanable service containers shall be provided for the storage of garbage. Location shall be within 100 feet of each shelter on a wooden, metal, or concrete stand.	2	\$0.00
1910.142(k)(1)	First aid: Adequate first aid facilities approved by a health authority shall be maintained and made available in every labor camp for the emergency treatment of injured persons.	3	\$0.00
1910.1200(e)(1)	Employers shall develop, implement and maintain at each workplace a written hazard communication program.	4	\$2,775.00

1910.1200(e)(1)(i)	The hazard communication program must contain a list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet.	2	\$0.00
1910.1200(e)(2)	Employers who produce, use, or store hazardous chemicals at a workplace in such a way that the employees of other employer(s) may be exposed shall additionally ensure that the hazard communication programs developed and implemented include requirements found in paragraphs (e)(2)(i)→(iii).	1	\$0.00
1910.1200(g)(1)	Employers shall have a safety data sheet in the workplace for each hazardous chemical they use.	2	\$0.00
1910.1200(g)(8)	Safety data sheets: The employer shall maintain in the workplace copies of the required safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access and other alternatives to maintaining paper copies of the safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)	1	\$0.00
1910.1200(h)(1)	Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and safety data sheets.	3	\$1,575.00
1910.1200(h)(2)(iii)	Employees shall be informed of the location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and safety data sheets required by this section.	1	\$0.00
1910.1200(h)(3)(iii)	Employee training shall include at least the measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used.	1	\$450.00
1928.51(b)(1)	ROPS shall be provided by the employer for each tractor operated by an employee. Except as provided in paragraph (b)(5) of this section, a ROPS used on wheel-type tractors shall meet the test and performance requirements of 29 CFR 1928.52, 1928.53, or 1926.1002 as appropriate. A ROPS used on track-type tractors shall meet the test and performance	1	\$2,000.00

	requirements of 29 CFR 1926.1001.		
1928.51(b)(2)(i)(A)	Where roll-over protective structures (ROPS) are required by this section, the employer shall provide each tractor with a seatbelt which meets the requirements of this paragraph.	2	\$450.00
1928.51(b)(2)(i)(B)	Where roll-over protective structures (ROPS) are required by this section, the employer shall ensure that each employee uses such seatbelt while the tractor is moving.	2	\$2,040.00
1928.51(d)	Operating instructions: Every employee who operates an agricultural tractor shall be informed of the operating practices contained in Appendix A of this part and of any other practices dictated by the work environment. Such information shall be provided at the time of initial assignment and at least annually thereafter.	2	\$0.00
1928.57(a)(6)	Operating instructions: At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he is or will be involved.	3	\$8,400.00
1928.57(a)(6)(iii)	Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning or unclogging equipment except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees as to all steps and procedures which are necessary to safely service or maintain the equipment.	1	\$2,500.00
1928.57(a)(6)(iv)	Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine.	1	\$1,500.00
1928.57(a)(6)(v)	Lock out electrical power before performing maintenance or service on farmstead equipment.	2	\$4,900.00
1928.57(a)(8)(i)	Where guards are used to provide the protection required by this section, they shall be designed and located to protect against inadvertent contact with the hazard being guarded.	1	\$2,500.00
1928.57(a)(8)(iii)	Guards shall be free from burrs, sharp edges, and sharp corners, and shall be securely fastened to the equipment or building.	1	\$0.00
1928.57(c)(2)(i)	Farmstead equipment: The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets, and idlers shall be guarded.	1	\$1,500.00
1928.57(c)(2)(ii)	Farmstead equipment: Other power transmission component: All revolving shafts, including projections such as bolts, keys, or set screws, shall be guarded except as stated in (c)(2)(ii)(A) and (B).	1	\$450.00
1928.110(c)(1)	Basic requirement: Potable drinking water.	1	\$585.00

1928.110(c)(1)(i)	Potable drinking water: Potable water shall be provided and placed in locations readily accessible to all employees.	1	\$600.00
1928.110(c)(1)(iii)	The water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.	12	\$2,350.00
1928.110(c)(2)	Basic requirement: Toilet and handwashing facilities.	1	\$450.00
1928.110(c)(2)(i)	One toilet facility and one hand washing facility must be provided for every 20 employees (except as stated in paragraph (c)(2)(v) of section 110).	10	\$4,440.00
1928.110(c)(2)(iii)	Toilet and handwashing facilities shall be accessibly located and in close proximity to each other. The facilities shall be located within a one-quarter-mile walk of each hand laborer's place of work in the field.	1	\$0.00
1928.110(c)(4)	Reasonable use: The employer shall notify each employee of the location of the sanitation facilities and water and shall allow each employee reasonable opportunities during the workday to use them. The employer also shall inform each employee of the importance of each of the following good hygiene practices to minimize exposure to the hazards in the field of heat, communicable diseases, retention of urine and agrichemical residues.	1	\$0.00
	TOTAL	127	\$114,627.50

III. Operators Failing to Apply for or Obtain Permits to Operate Migrant Housing

Grower Name	Standard Cited	
	95.226(a)*	95.226(d)**
Isles Farms		X
Jose Perez Lopez		X
Sandoval Produce Incorporated	X	
Jose Belen Robles	X	
Perez Brothers Produce, Inc.	X	
Jesus Fonseca		X
C.L. Henderson Produce, LLC		X
Heirloom Apples at Freeman Orchards, LLC		X
Mejia Produce LLC	X	
Tony Hill	X	
Sharon Franklin	X	
TOTAL	6	5

* 95.226(a) – Grower failed to request preoccupancy inspection at least 45 days prior to anticipated date of occupancy.

** 95.226(d) – Migrant housing facilities were not certified by NCDOL prior to the occupancy of housing.