MIGRANT SEASONAL FARMWORKER HOUSING

Inspection and Permitting Requirements in New York State

CONTACT THE DEPARTMENT OF LABOR
Division of Immigrant Policies and Affairs
Statewide locations
Contact your local Agriculture Labor Specialist by calling:
877-466-9757 or 212-775-3358

Foreign Labor Certification Unit (H-2A)
276 Waring Road
Rochester, NY 14609
585-258-8855
H2A@labor.ny.gov

Helpful links:
www.labor.ny.gov/immigrants/agriculture-labor-program/services-for-agriculture-employers.shtm
www.labor.ny.gov/immigrants/foreign-labor-certification-unit.shtm

CONTACT THE DEPARTMENT OF HEALTH
Bureau of Community Environmental Health and Food Protection
Contact your local county Health Department or
Bureau of Community Environmental Health and Food Protection
Empire State Plaza
Corning Tower
Room 1395
Albany, NY 12237
518-402-7600

Helpful links:
www.health.ny.gov/environmentalcontacts
www.health.ny.gov/regulations/nycrr/title_10/part_15/
www.health.ny.gov/environmental/water/drinking/doh_pub_contacts_map.htm

www.labor.ny.gov/immigrants/agriculture-labor-program/services-for-agriculture-employers.shtm
www.labor.ny.gov/immigrants/foreign-labor-certification-unit.shtm

The New York State Department of Labor is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.
NEW YORK STATE DEPARTMENT OF LABOR REQUIREMENTS

The Agricultural Recruitment System requires that all housing offered to workers on all local, intrastate and interstate job orders be inspected and approved. Housing offered as a benefit with local job orders for recruitment and intrastate job orders for statewide recruitment must be inspected by the appropriate agency. Additionally, the Department of Labor assists New York employers by processing job orders for the H-2A temporary labor program. The H-2A job order process is part of Interstate recruitment. All employers must demonstrate that they will provide suitable housing for their H-2A and domestic farmworkers. The Department of Labor coordinates the required inspections that must take place before an H-2A job order is certified by the U.S. Department of Labor’s Chicago National Processing Center.

The Department of Labor works with Department of Health to coordinate inspections of housing for five or more workers, utilizing Part 15 regulations. The Department of Labor conducts inspections for housing for four or less workers. These inspections must comply with federal housing regulations: Employment and Training Administration (ETA) – all housing constructed before April 3, 1980, or Occupational Safety and Health Administration (OSHA) – all housing constructed or significantly renovated after April 1980. Housing regulations also require that water available to workers for drinking, cooking and bathing be potable. Therefore, employers must provide compliant well-water testing results as part of the housing inspection process.

Employers seeking to process applications for foreign labor under the H-2A program must submit their initial paperwork to the New York State Department of Labor 60-75 days prior to the start of work. They must have an approved housing inspection no less than 32 days prior to the start of work.

STATE AND FEDERAL REGULATORY AGENCIES AND REQUIREMENTS

Farmers and other employers providing housing to migrant seasonal farmworkers may be required to comply with the requirements of State and/or Federal agencies. These agencies are responsible for ensuring regulatory compliance regarding the safety of farmworker housing. Farm owners providing housing may be required to submit information about their employment activities, obtain permits and allow for inspection of their housing facilities.

This brochure lists the responsibilities of the Department of Labor and the Department of Health regarding the inspection of housing for migrant seasonal farmworkers in New York State and outlines requirements of each agency.

NEW YORK STATE DEPARTMENT OF HEALTH REQUIREMENTS

The Department of Health is responsible for permitting and inspecting farmworker housing facilities occupied by five or more persons – one or more of whom are employed to perform farm activities. An annual operating permit must be obtained for both on-site and off-site housing provided by the employer. A pre-operational inspection must be conducted by State/County Department of Health staff prior to any occupancy of the facility by workers as described above. The Department of Health also routinely inspects this housing during the operating season to ensure it meets the requirements contained in Part 15, “Migrant Farmworker Housing,” of the New York State Sanitary Code.

REGISTERING A NEW LABOR CAMP?

The Department of Health process for obtaining a labor camp permit for a new facility can range from six months to a year or longer. The permitting process requires the review of a detailed permit application and an evaluation of the following items:

- Structural integrity and maintenance
- Fire safety
- Water supply
- Sewage treatment system
- Laundry facilities
- Food service
- General sanitation and trash disposal

HOW CAN AN EMPLOYER HELP THE PROCESS?

To expedite the permitting process, the employer should provide the following information regarding the facility (if known):

- Type, on-site location and any treatment of the private water supply serving the facility (drilled well vs. dug well)
- Components and location of sewage disposal system
- Engineered plans detailing the water supply and sewage treatment system, and a Copy of the Certificate of Occupancy or Certificate of Compliance issued by local Code Enforcement may be required
- Employers are required for scheduling the mandatory pre-operational inspection when the permit application and engineered plans (when required) have been approved, construction is complete, and the facility meets all requirements of Part 15