

§ 95-226. Application for inspection.

(a) Except as provided in subsection (f) of this section, 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 to the local health department. Upon receipt of an application by the Department of Labor of North Carolina, the Department of Labor of North Carolina shall immediately notify, in writing, the appropriate local health department; and the local health department shall inspect the migrant housing for compliance with G.S. 95-225(c) and (d). Upon receipt of the application by the local health department, the local health department shall immediately notify, in writing, the Department of Labor of North Carolina and shall inspect the migrant housing for compliance with G.S. 95-225(c) and (d).

The local health department shall forward the results of its inspection to the Department of Labor of North Carolina and to the operator. The Department of Labor of North Carolina shall inspect the migrant housing and certify to the operator the results of the inspection.

At the time the Department of Labor of North Carolina conducts a preoccupancy inspection, the Department of Labor of North Carolina shall provide the operator with a copy of the guide for employers on compliance with the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq., as amended, prepared by the United States Department of Justice.

(b) The Department of Labor of North Carolina shall provide local health departments and Agricultural Extension offices with blank copies of forms for applying for preoccupancy inspections.

(c) The application for inspection shall include:

- (1) The name, address, and telephone number of the operator;
- (2) The location of the migrant housing;
- (3) The anticipated number of migrants to be housed in the migrant housing; and
- (4) The anticipated dates of occupancy of the migrant housing.

(d) Except as provided in subsections (e) and (f) of this section, an operator may allow the migrant housing to be occupied only if the migrant housing has been certified by the Department of Labor of North Carolina or the United States Department of Labor to be in compliance with all of the standards under this Article, except that an operator may allow migrant housing to be occupied on a provisional basis if the operator applied for a preoccupancy inspection at least 45 days prior to occupancy and the preoccupancy inspection was not conducted by the Department of Labor of North Carolina at least four days prior to the anticipated occupancy. Upon subsequent inspection by the Department of Labor of North Carolina, the provisional occupancy shall be revoked if any deficiencies have not been corrected within the period of time specified by the Department of Labor of North Carolina, or within two days after receipt of written notice provided on-site to the operator. No penalties may be assessed for any violation of this Article which are found during the preoccupancy inspection, unless substantive violations exist during provisional occupancy.

(e) If an operator has applied for an inspection pursuant to this Article and one or more migrants arrives 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.

(f) If an operator receives a preoccupancy inspection rating from the Department of Labor of North Carolina of one hundred percent (100%) compliance for a particular migrant housing unit for two consecutive years, in the third year the operator shall have the right to conduct the preoccupancy inspection for that particular migrant housing unit himself or herself. Operators conducting their own preoccupancy inspections pursuant to this subsection shall, at least 45 days prior to occupancy, register the migrant housing with the Department of Labor of

North Carolina and notify in writing the appropriate local health department. The local health department shall inspect the migrant housing for compliance with G.S. 95-225(c) and (d). The operator shall request a preoccupancy inspection under subsection (a) of this section in the year following a year when the operator conducted a self-inspection under this subsection.

(g) In addition to any other applicable federal or State law or regulation, the Department may only conduct a postoccupancy inspection of operators:

- (1) Who were subject to an annual preoccupancy inspection by the Department of Labor of North Carolina and found not to be in one hundred percent (100%) compliance at that inspection.
- (2) Who were assessed a civil penalty by the Department of Labor of North Carolina during the previous calendar year for violations of this Article or pursuant to G.S. 95-136(a)(3).
- (3) Who did not undergo a preoccupancy inspection, unless the operator conducted a self-inspection pursuant to subsection (f) of this section.
- (4) In response to a referral from a federal, State, county, or local government official or any person with firsthand knowledge of an alleged violation of this Article or of an alleged safety or health hazard whom the Department of Labor of North Carolina deems to have provided a credible referral. (1989, c. 91, s. 2; 2007-548, ss. 3.1, 3.2, 4.)