

Wage and Hour Division, Labor

§ 500.140

§ 500.133 Substantive Federal and State safety and health standards defined.

Substantive safety and health standards include, but are not limited to, those that provide fire prevention, an adequate and sanitary supply of water, plumbing maintenance, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require, and reasonable protections for inhabitants from insects and rodents. Substantive housing standards do not include technical or procedural violations of safety and health standards.

§ 500.134 Compliance with State standards.

Compliance with the substantive Federal housing safety and health standards shall not excuse noncompliance with applicable substantive State housing safety and health standards.

§ 500.135 Certificate of housing inspection.

(a) Except as provided in paragraph (c) of this section, a facility or real property to be used for housing a migrant agricultural worker shall not be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency, including a Federal agency, has certified that the facility or real property meets applicable safety and health standards.

(b) Except as provided in paragraph (c) of this section, the person who owns or controls a facility or real property shall not permit it to be occupied by any migrant agricultural worker unless a copy of a certificate of occupancy from the State, local or Federal agency which conducted the housing safety and health inspection is posted at the site of the facility or real property. The original of such certificate of occupancy shall be retained by such person for three years and made available for inspection in accordance with section 512 of the Act.

(c) If a request for an inspection of a facility or real property is made to the appropriate State, local or Federal agency at least forty-five (45) days prior to the date on which it is to be

occupied by a migrant agricultural worker but the agency has not conducted an inspection by such date, the facility or property may be occupied by migrant agricultural workers unless prohibited by State law.

(d) Receipt and posting of a certificate of occupancy as provided under paragraph (b) of this section, or the failure of an agency to inspect a facility or property within the forty-five (45) day time period, shall not relieve the person who owns or controls a facility or property from the responsibility of ensuring that such facility or property meets the applicable State and Federal safety and health standards. Once such facility or property is occupied, such person shall supervise and continually maintain such facility or property so as to ensure that it remains in compliance with the applicable safety and health standards.

Subpart E—Enforcement

§ 500.140 General.

Whenever the Secretary believes that the Act or these regulations have been violated he shall take such action and institute such proceedings as he deems appropriate, including (but not limited to) the following:

(a) Recommend to the Attorney General the institution of criminal proceedings against any person who willfully and knowingly violates the Act or these regulations;

(b) Recommend to the Attorney General the institution of criminal proceedings against any farm labor contractor who recruits, hires, employs, or uses, with knowledge, the services of any illegal alien, as defined in § 500.20(n) of these regulations, if such farm labor contractor has:

(1) Been refused issuance or renewal of, or has failed to obtain, a Certificate of Registration, or

(2) Is a farm labor contractor whose certificate has been suspended or revoked;

(c) Petition any appropriate District Court of the United States for temporary or permanent injunctive relief to prohibit violation of the Act or these regulations by any person;