

Migrant Labor Housing Facilities in Texas:

A Report on the Quantity, Availability, Need, and Quality of Migrant Labor Housing in the State

A Report Required by HB 1099, Section 2(f) of the 79th Legislature, Regular Session
by the



www.tdhca.state.tx.us

Date of Submission
September 1, 2006

Michael Gerber
Executive Director

Prepared by the TDHCA Division of Policy and Public Affairs
PO Box 13941, Austin, TX 78711-3941
Phone: (512) 475-3976, Fax: (512) 469-9606, email: info@tdhca.state.tx.us

**Migrant Labor Housing Facilities in Texas:
A Report on the Quantity, Availability, Need, and Quality of Migrant Labor
Housing in the State**

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

INTRODUCTION..... 3

WHO ARE MIGRANT FARMWORKERS? 4

MIGRANT FARMWORKERS IN TEXAS 7

TEXAS MIGRANT LABOR HOUSING 9

 OBSTACLES TO THE PROVISION OF MIGRANT HOUSING 9

 HOUSING QUALITY 9

 HOUSING QUANTITY, AVAILABILITY, NEED 10

 CONDITIONS AT LICENSED FACILITIES..... 11

**TRANSITION OF THE INSPECTION AND LICENSING OF MIGRANT LABOR HOUSING
FACILITIES TO TDHCA 13**

 LOCATING UNLICENSED FACILITIES 13

MIGRANT FARMWORKER HOUSING PROGRAMS 14

 TEXAS 14

 OTHER MIGRANT HOUSING PROGRAMS IN THE UNITED STATES..... 14

CONCLUSIONS..... 17

APPENDIX A. HOUSE BILL 1099..... 19

**APPENDIX B. MAP OF ESTIMATED NUMBER OF MIGRANT FARMWORKERS AND NON
FARMWORKERS IN MIGRANT HOUSEHOLDS WITHIN EACH TEXAS COUNTY 23**

APPENDIX C. CHAPTER 90. MIGRANT LABOR HOUSING FACILITIES 10 TAC §§90.1 - 90.8 .. 24

APPENDIX D. REPORT OF INSPECTION MIGRANT LABOR HOUSING FACILITY..... 37

APPENDIX E. LIST OF LICENSED MIGRANT FARMWORKER HOUSING FACILITIES 41

APPENDIX F. EXPLANATION OF ABBREVIATIONS..... 42

Migrant Labor Housing Facilities in Texas

Table of Contents

EXECUTIVE SUMMARY

House Bill No. 1099 (79th Legislature, Regular Session) transferred the inspection and licensing of migrant labor housing from the Health and Human Services Commission (HHSC) to the Texas Department of Housing and Community Affairs (TDHCA or Department). In addition to transferring these responsibilities, the bill also required that TDHCA survey and research the quantity, availability, need, and quality of migrant labor housing facilities in Texas. This report presents the Department's findings on the state of migrant labor housing in Texas.

Differing definitions of "migrant" and "seasonal," the variety of terms used to describe units available to migrant and seasonal farmworkers, and unreliable data collection methods make it especially difficult to study the housing needs associated with this population. A detailed source of demographic information on migrant and seasonal farmworkers is the National Agricultural Workers Survey (NAWS) and the Migrant and Seasonal Farmworker Enumeration Profile Study (MSFEPS). This study makes up a substantial portion of the data used in this report.

It is estimated that there are 132,034 migrant farmworkers in Texas and 78,078 nonfarmworkers in migrant households.¹ There are currently 31 migrant labor housing facilities licensed by TDHCA that meet a portion of the housing needs of these persons. These facilities provide 633 units with the potential to house a total 3,245 persons. Because of the great difference between the estimated number of migrant farmworkers and the amount of housing provided by licensed facilities, it is apparent that the majority of migrant farmworkers and their families reside in non-licensed situations, such as manufactured homes, apartments, motels, travel trailers, or even automobiles.

While TDHCA-licensed facilities are inspected annually and are required to meet health and safety standards, substandard conditions are believed to be widespread in other migrant labor housing situations. Such substandard conditions include unsanitary conditions, exposed plumbing and electrical wiring, holes in the roof, open wells, and pesticide exposure. Additionally, households face other basic affordable housing problems such as cost burden and overcrowding.

It is thought that the findings contained in this report will serve as a resource for the development of recommendations on how to address the need for safe and affordable housing for migrant and seasonal farmworkers and their households.

¹US Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care, *Migrant and Seasonal Farmworker Enumeration Profiles Study: Texas*, by Alice Larson (Vashon Island, WA: Larson Assistance Services, September 2000), 19, <http://www.bphc.hrsa.gov/migrant/enumeration/final-tx.pdf> (accessed August 30, 2005).

Migrant Labor Housing Facilities in Texas

Executive Summary

INTRODUCTION

House Bill 1099, 79th Legislature, Regular Session, transferred responsibility for the inspection and licensing of migrant labor housing facilities from HHSC to TDHCA. The text of HB 1099 is provided as Appendix A. In addition to transferring inspecting and licensing responsibilities, the bill also required TDHCA to survey and research the quantity, availability, need, and quality of migrant labor housing facilities in Texas. This report is the result of the legislative mandate.

At the outset, certain terminology and facts should be clarified so that this report will not be confusing and potentially misleading.

Migrant labor housing facilities are a statutorily defined group. As set out in Texas Government Code, §2306.921:

"Migrant labor housing facility" means a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers, whether rent is paid or reserved in connection with the use of the facility.

Migrant agricultural workers, likewise, are defined by law:

"Migrant agricultural worker" means an individual who:

- (A) is working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry; and*
- (B) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment."*

These definitions lead to a discussion of two essential concepts that affect the findings of this report.

- Migrant agricultural workers comprise only a portion of a very large population that is broadly described as agricultural workers. Accordingly, neither this study nor the activities of TDHCA in administering this law address larger issues involving the state of housing for the agricultural industry in Texas.
- As shown by the map provided as Appendix B, the major concentration of licensed migrant labor housing facilities is in the Texas Panhandle. These panhandle facilities are closely tied to the cotton industry. A reader might question why there is not a larger concentration in the Lower Rio Grande River Valley, an area of significant agricultural activity in Texas. While there are many migrant labor workforce participants who do reside in the lower Rio Grande River Valley, they are not living there as migrant workers. Rather, this area is their primary residence. Many of the members of the larger agricultural workforce residing in the Lower Rio Grande River Valley leave seasonally to work in other areas, such as the cotton harvest in the Texas Panhandle and, likely, in other agricultural sectors, including work in other states.

WHO ARE MIGRANT FARMWORKERS?

Migrant and seasonal farmworkers provide the labor required by agricultural production's demand for labor at critical periods of crop development. Farmworkers are needed to hand-pick apples or peaches, harvest asparagus or chilies, stake tomatoes, dig potatoes, or beets, or work in a packing plant. Hand labor is especially vital to the production of the blemish-free fruits and vegetables that American consumers demand.² Seasonal farmworkers are also a key component of Texas' significant cotton production, providing the workforce required to harvest cotton.

Texas is the nation's second-leading state in agricultural production. The state's diverse agricultural industry produces grains, fruits, vegetables, natural fibers, and livestock. Agricultural commodities add an estimated \$16 billion annually to the state's economy, making agriculture the second largest industry in Texas.³ Table 1 provides a list of Texas crops that demand migrant labor.

Table 1—Texas Crops Requiring Labor⁴

Apples	Cotton	Herbs	Persimmons	Sweet
Avocados	Cucumbers	Hot Peppers	Plums	Peppers
Beets	Dry Cowpeas	Kale	Potatoes	Sweet
Berries	Dry Beans	Lemons	Pumpkins	Potatoes
Blackberries	Dry Onions	Mustard	Snap Beans	Tangerines
Blueberries	Eggplant	Greens	Southern	Tomatoes
Broccoli	Grapefruit	Okra	Peas	Turnip
Cantaloupes	Grapes	Oranges	Spinach	Greens
Carrots	Green Onions	Parsley	Squash	Turnips
Christmas	Green Peas	Peaches	Strawberries	Watermelon
Trees	Guar	Peanuts	Sugar Beets	
Collards	Head	Pears	Sugarcane	
Corn for seed	Cabbage	Pecans	Sweet Corn	

The findings NAWS presents a demographic and employment profile of US farmworkers.⁵ The NAWS was conducted by the US Department of Labor (DOL) and is based on face-to-face interviews with farmworkers. The survey interviewed 6,472 crop farm workers that represented nearly all farm workers in crop agriculture, including field packers and supervisors. Because 42 percent of those surveyed were migrants, the survey is thought to present the best available

²National Center for Farmworker Health, Inc., "Overview of America's Farmworkers," http://www.ncfh.org/aaf_02.php (accessed May 11, 2006).

³Texas Department of Agriculture, "Why Agriculture is Important To Texas," http://www.agr.state.tx.us/about/intern/adm_ag_info.htm (accessed February 1, 2006).

⁴US Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care, *Migrant and Seasonal Farmworker Enumeration Profiles Study: Texas*, by Alice Larson (Vashon Island, WA: Larson Assistance Services, September 2000), 19, <http://www.bphc.hrsa.gov/migrant/enumeration/final-tx.pdf> (accessed August 30, 2005).

⁵US Department of Labor, Office of the Assistant Secretary for Policy, and Aguirre International, Findings from the National Agricultural Workers Survey (NAWS) 2001-2002: A Demographic and Employment Profile of United States Farm Workers, by Daniel Carroll et al. (Washington, DC: US Department of Labor, March 2005), http://www.doleta.gov/agworker/report9/naws_rpt9.pdf (accessed May 11, 2006).

portrait of migrant farmworkers. However, it should be noted that the survey does not include poultry, livestock, and fishery workers⁶ and focuses on all farmworkers, not just migrant or seasonal farmworkers. Migrants are defined by the NAWS as workers who traveled at least 75 miles within the previous year to obtain a farm job.

The survey provided the following statistics on farmworkers:

- Place of Birth. 23 percent were born in the US and 75 percent were born in Mexico.
- Ethnicity. 83 percent identified themselves as Hispanic.
- Age. The average age was 33.
- Gender. 79 percent were male.
- Marital Status. 58 percent were married.
- Familial Status. 51 percent were parents with an average of two children.
- Education. On average, seventh grade was the highest grade completed.
- Language. 81 percent reported Spanish as their native language and 44 percent reported that they could not speak English “at all.”
- Income. Average individual income was between \$10,000 and \$12,499, and average family income was between \$15,000 and \$17,499.

The legal status of migrant farmworkers is of particular importance. The NAWS reported that 75 percent of survey respondents were born in Mexico, and 53 percent were not authorized to work in the US.⁷ It is assumed that the high rate of undocumented farmworkers extends to all industries employing migrant farmworkers.

Without a legal status, migrant farmworkers may encounter difficulty receiving social services and housing assistance. For example, the government-funded Food Stamp Program requires that applicants “have or apply for a Social Security number and be either a US citizen, US national, an American Indian born in Canada or Mexico or have status as a qualified alien.”⁸ With regard to housing programs, USDA’s Farm Labor Housing Program, which funds the development of rental housing for farmworkers, specifies that eligible tenants are domestic farmworkers who are citizens or legally admitted permanent residents.⁹ It is apparent that basic assistance programs, including those that are specifically intended to assist farmworkers, are not reaching major portions of this population.

Migrant farmworkers are eligible to receive assistance through most TDHCA programs, such as those that offer emergency assistance and utility assistance. It is the policy of TDHCA to not require its nonprofit recipients of funds to verify, as a condition of receiving funds, the citizenship

⁶ US Department of Labor, *Findings from the National Agricultural Workers Survey (NAWS) 2001-2002*, ix.

⁷ US Department of Labor, *Findings from the National Agricultural Workers Survey (NAWS) 2001-2002*, 3.

⁸ Social Security Administration, “Food Stamps and Other Nutrition Programs,” SSA Publication No. 05-10100, (SSA, February 2006) <http://www.ssa.gov/pubs/10100.html#foodstamps> (accessed August 10, 2006).

⁹ Housing Assistance Council, “Rural Housing Service’s Section 514/516 Farm Labor Housing Program: A Guide for Applicants,” December 1999 <http://www.ruralhome.org/pubs/farmworker/514/farmworker4.htm> (Accessed August 11, 2006)/

Migrant Labor Housing Facilities in Texas

Who are Migrant Farmworkers?

or immigration status of applications for assistance. This policy does not apply to the Section 8 Housing Choice Voucher Program, which does require immigration verification. In addition, please note that this policy is subject to change if TDHCA's federal funding resources revise their policies.

MIGRANT FARMWORKERS IN TEXAS

Texas is the starting point for the Midwestern migrant stream, which runs to the Great Lakes and Northern Plains states.¹⁰ While Texas has a large number of migrant farmworkers working in the state, there are also a number of migrant workers who live in Texas during the winter but travel to other states to work during their growing and harvest seasons. The Housing Assistance Council's (HAC's) survey of farmworker housing reported the following responses regarding place of prior residence.

Of the Texas HAC survey respondents,

- 16 percent of respondents noted their prior residence as Mexico,
- more than 30 percent of Texas respondents last lived elsewhere in the state, and
- 10 percent of Texas respondents last lived outside the Midwestern migrant stream.

Almost all the Midwestern upstream respondents, whose prior residence was outside the United States, had last lived in Mexico. This group comprised 21 percent of Midwestern upstream respondents. Forty-five percent of upstream Midwestern respondents reported Texas as their prior residence.⁴

Comprehensive and accurate information on migrant and seasonal farmworkers is limited. The various definitions of migrant and seasonal farmworker and methods in counting the population preclude definitive tabulations. The most commonly used data source for numbers of migrant and seasonal farmworkers in Texas is the MSFEPS for Texas.⁶ In this study, the following definitions of migrant and seasonal farmworkers are used.

A seasonal farmworker is "an individual whose principal employment [51% of time] is in agriculture on a seasonal basis, who has been so employed within the last twenty-four months."

A migrant farmworker meets the same definition but "establishes for the purposes of such employment a temporary abode."

Included in the scope of the study are individuals engaged in field and orchard agriculture; packing and sorting procedures in food processing; horticultural specialties (including nursery operations, greenhouse activities and crops grown under cover); and reforestation. Excluded from the study are those working with livestock, poultry, and fisheries.

For the purpose of this report, the numbers for migrant farmworker and migrant household members from the MSFEPS are used because the definition of migrant households most closely matches the definition provided by HB 1099. As estimated by this report, there are an

¹⁰Housing Assistance Council, *No Refuge From the Fields: Findings From a Survey of Farmworker Housing Conditions in the United States*, by Christopher Holden *et al.* (Washington, DC: Housing Assistance Council, September 2001), <http://www.ruralhome.org/pubs/farmworker/norefuge/norefuge.pdf> (accessed May 11, 2006).

Migrant Labor Housing Facilities in Texas

Migrant Farmworkers in Texas

estimated 132,034 migrant farmworkers and 78,078 nonfarmworkers in migrant households in Texas.¹¹

The study noted that migrant and seasonal farmworkers in Texas are difficult to estimate as it is a major sending state for migrants throughout the country. Many of these individuals are also employed in Texas at agricultural jobs available in the winter during the “off season” for work in other areas. However a very large number of individuals are *not* employed in agriculture in Texas, but still meet the Migrant Health Program definition as they work as migrants in other states. Such workers are defined as “resident migrants” in the MSFEPS, and county totals were increased in the migrant estimates to account for their presence in the state.

While data on migrant farmworkers is extremely limited, the MSFEPS does provide data at the state and county level. The study used a methodology based on actual crop harvest totals and “demand for labor” formulas that calculated the total number of man-hours needed to harvest the crops, which were then used to calculate the estimated number of farmworkers. Appendix B presents a map of the Texas migrant and seasonal farmworker enumeration profile estimates by county.¹²

The US Census reports extremely limited information on this population. The 2000 Census reports 571 individuals in agriculture workers’ dormitories on farms. This includes people in migratory farm workers’ camps on farms, bunkhouses for ranch hands, and other dormitories on farms, such as those on “tree farms.”¹³

¹¹US Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care, *Migrant and Seasonal Farmworker Enumeration Profiles Study: Texas*, by Alice Larson (Vashon Island, WA: Larson Assistance Services, September 2000), 19, <http://www.bphc.hrsa.gov/migrant/enumeration/final-tx.pdf> (accessed August 30, 2005).

¹²US Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care, *Migrant and Seasonal Farmworker Enumeration Profiles Study: Texas*, by Alice Larson (Vashon Island, WA: Larson Assistance Services, September 2000), 19, <http://www.bphc.hrsa.gov/migrant/enumeration/final-tx.pdf> (accessed August 30, 2005).

¹³US Census Bureau, PCT16. Group Quarters Population by Group Quarters Type, Data Set: Census 2000 Summary File 1.

TEXAS MIGRANT LABOR HOUSING

Migrant farmworkers have a particularly difficult time finding available, affordable housing because of extremely low and sporadic incomes and the fact that they will reside in a given location only a short time. Many of the small, rural communities in which migrant workers may seek employment do not have the rental units available for the seasonal influx. Overcrowding and substandard housing are significant housing problems for farmworkers.¹⁴ In addition, migrant workers may not be able to afford security deposits, pass credit checks, or commit to long-term leases.

Obstacles to the Provision of Migrant Housing

Considering that most farms are located in rural areas with limited resources, there is concern about the capacity of local organizations to develop housing and serve this population. Rural areas typically have fewer financial resources because of smaller populations and lower incomes. Similarly, rural areas may experience shortages of administrative funds and staff to reach households in their areas.

HAC finds that increasing the housing stock for farmworkers is also complicated by (1) the difficulty in creating financially viable projects that serve residents with extremely low incomes for short occupancy periods, (2) difficulty locating land with appropriate zoning, (3) opposition to affordable farm labor housing, and (4) lack of roads and utilities to rural sites.¹⁵ HAC concludes that these site and project obstacles impede not only growers, but also “nonprofits struggling with limited budgets and limited staff capacity.”

Housing Quality

Substandard conditions are common with unlicensed migrant labor housing. Because of limited grower-owned and government-sponsored housing, many workers seek housing in the private market.¹⁶ The Texas Low Income Housing Information Service reports that a common alternative is a dilapidated trailer or makeshift house. HAC reports that mobile homes are the type of unit most likely to be severely or moderately substandard.¹⁷ In addition to substandard conditions such as unsanitary conditions, exposed plumbing and electrical wiring, holes in the roof, and open wells, other common conditions are overcrowding, cost burden, and pesticide exposure.

¹⁴Christopher Holden. “Monograph No. 8: Housing” in *Migrant Health Issues* (Buda, TX: National Center for Farmworker Health, Inc., October 2001), 40, <http://www.ncfh.org/docs/08%20-%20housing.pdf> (accessed August 30, 2005).

¹⁵ Housing Assistance Council, “Housing for Families and Unaccompanied Migrant Farmworkers,” August 1997, <http://www.ruralhome.org/pubs/farmworker/migrant/solutions.htm> (accessed August 11, 2006).

¹⁶Texas Low Income Housing Information Service, “Substandard Housing Plagues Texas Panhandle Farm Workers,” *Housing Matters*, (Austin, TX: Texas Low Income Housing Information Service, September 2004), <http://www.texashousing.org/webnews/issues/news001.pdf> (accessed May 11, 2006).

¹⁷Housing Assistance Council, *No Refuge From the Fields: Findings From a Survey of Farmworker Housing Conditions in the United States*, by Christopher Holden *et al.* (Washington, DC: Housing Assistance Council, September 2001), <http://www.ruralhome.org/pubs/farmworker/norefuge/norefuge.pdf> (accessed May 11, 2006).

Migrant Labor Housing Facilities in Texas

Texas Migrant Labor Housing

The following portraits of farmworker housing are from the *2004 Texas Farmworker Housing Summit Report*.¹⁸

John Ballejo, El Paso office Trans-Pecos Region—El Paso has population greater than 500,000 and its neighbor, Juarez, has 1.2 million, so the metro area has almost two million people. An estimated 4,000 of them are farmworkers. Area farmworkers have income of less than \$5,000 a year. Housing is available to farmworkers through the work of nonprofit organizations. On a typical night, 200 people sleep on the floor in the Centro de los Trabajadores Agrícolas Fronterizas' building before reporting for work to be transported to New Mexico fields in the wee hours of the morning; others sleep in the doorways and under bridges.

The Opportunity Center also provides shelter to farmworkers. The 50 units of the Herb "Tio" Cooper Apartments on the west side of the city were recently opened by the El Paso Housing Authority and provide rental units designed solely for farmworkers. Poor conditions abound in trailers, substandard housing, and colonias. Even thatched roof houses have been seen in the region. Housing for the migrant and seasonal farmworker is only one issue and the need is great.

Irene Favila, Plainview Office, Plains Region—Eighty five percent of the industry in this rural area revolves around agriculture, yet those individuals who work so faithfully and diligently are expected to begin and end their workdays in conditions that are unsanitary and frankly inhumane. Eighty percent of the current Farm Labor Housing was constructed in the early 1960s and shows signs of aging and lack of financial support for maintenance. Recent funding from USDA Rural Development will be used to improve some units. It is impossible for a child who has been cold or dirty during the night to be fresh and ready to experience all that is afforded to them through Head Start Programs as well as the public school systems. Yet the sometimes brutal climate in the fall and winter exacerbate unhealthy and unsafe conditions. Many years, temperatures become unexpectedly frigid. Year after year, farmworkers continue to live in housing that has holes, cracks and loose walls, frayed electrical wiring, inappropriate water and sewage systems, plumbing that leaks, no insulation, open flame heating units, no foundations, roofs that leak, or heating wall units that are not in working condition.

Housing Quantity, Availability, Need

As of the date of this report there are 31 licensed migrant labor housing facilities with a combined number of 633 housing units, potentially serving approximately 3,245 occupants, including migrant agricultural workers and their families.

¹⁸Texas Farmworker Housing Summit, *Summit Report*, by Kathy Tyler (Austin, TX: MET, Inc., 2004).

In Texas, there are 19 farm labor housing facilities funded through the US Department of Agriculture Rural Development. These facilities provide a total of 1,361 farmworker units of which a substantial portion may be used by migrant farmworkers.

As part of its ongoing planning activities, TDHCA sent a 2006 Community Needs Survey to city and county governments, community action agencies, State Senators and Representatives, and Housing Opportunities for People with AIDS agencies throughout the state. The survey gathered a community-level perspective on how to best address the State's affordable housing and community development needs. One of the survey questions was "Is there a need for migrant or seasonal farmworker housing in your area?" As Appendix B shows, communities from 46 counties indicated a need for migrant or seasonal farmworker housing.

Conditions at Licensed Facilities

TDHCA-licensed facilities are inspected annually and are required to meet health and safety standards. Appendix C provides the newly adopted Chapter 90 of the Texas Government Code, which outlines the minimum standards that migrant labor housing facilities must meet. Appendix D is the inspection form the Department uses to inspect the facilities.

Licenses and a prescribed form of notice about how to make complaints are bilingual and must be conspicuously posted. When facilities are inspected, the following notice is posted at the facilities to encourage the reporting of complaints.

"If you have concerns or problems with the condition or operation of this facility or your unit, the Texas Department of Housing and Community Affairs (the "Department") is the state agency that licenses and oversees this facility. You may make a complaint to the Department by calling, toll-free, 1-877-724-5676, or by writing to Migrant Labor Housing, TDHCA, 4413 82nd Street, Lubbock, TX 79424-3366. This office has staff that speaks Spanish. To the fullest extent that we can, we will keep your identity confidential. The Department's rules prohibit any facility or operator from retaliating against you for making a complaint.

Si Usted tiene preocupaciones o problemas con la condición u operación de esta instalación o su unidad, el Departamento de Vivienda y Asuntos Comunitarios del Estado de Texas (El Departamento o TDHCA) es la agencia que da licencia y supervisa esta instalación. Usted puede mandar sus quejas al Departamento por teléfono gratuitamente por marcando 1-877-724-5676 u escribiendo a Migrant Labor Housing, TDHCA, 4412 82nd Street, Lubbock, TX 79424-3366. La oficina tiene personal que habla español. A lo mas posible que podemos, protegeremos su identidad. Las regulaciones del Departamento prohíben cualquier represalias por la instalación u el operador contra personas que se quejen contra ellos."

As of the date of this report, no complaints have been received by the Department. The Department will investigate complaints as they are received and such investigation may include

Migrant Labor Housing Facilities in Texas

Texas Migrant Labor Housing

conducting a complaint inspection. Complaints may be made in Spanish or in English. To the fullest extent permitted by applicable law, the identity of any complainant shall be maintained as confidential. Violations are subject to a civil penalty of \$200 for each day that the violation occurs. Complaints can be filed with Bradlee Dansbee, TDHCA Manufactured Housing Division, at 1-877-724-5676 or 1-806-794-2105.

In inspecting these facilities, TDHCA Manufactured Housing Division (MHD) staff has generally encountered a willingness to make required changes and improvements. When issues of noncompliance have been identified, the applicants/licensees have been responsive and corrected identified items. New requirements, such as the installation of smoke detectors, have been accepted and implemented without objection.

TRANSITION OF THE INSPECTION AND LICENSING OF MIGRANT LABOR HOUSING FACILITIES TO TDHCA

TDHCA staff met with HHSC staff prior to HB 1099 taking effect to discuss current issues, to review files, and to learn more about the HHSC approach to overseeing this activity. TDHCA utilizes existing capabilities of its MHD to carry out the licensing and inspection functions. On the effective date of the bill, September 1, 2005, TDHCA was ready to take on this charge. The Department has completed the following key steps to ensure that all qualifying facilities are licensed and inspected.

- At the time the licensure of migrant farmworker housing facilities was transferred to TDHCA from HHSC, the commission had a list of 86 previously licensed facilities. All facilities in the HHSC database were contacted and it was quickly ascertained which facilities were actively conducting migrant labor housing activity and needed to be licensed. As of August 2006, TDHCA had inspected and issued licenses for the 29 facilities from the original HHSC list that were still operating. Another two new facilities applied to TDHCA for licenses, bringing the total number of licensed migrant labor housing facilities to 31. Appendix B contains a map that shows the counties containing licensed facilities. Appendix E provides a list of the licensed migrant labor housing facilities.
- All active facilities needing to be licensed were promptly inspected. Deficiencies under the HHSC standards, which remained in effect until TDHCA adopted new standards, were addressed, and required licenses were issued.
- TDHCA, using MHD inspectors, inspected all other licensed facilities.
- TDHCA developed, published, received comment on, and adopted rules to establish the standards for the administration of this program.
- TDHCA began the re-inspection and re-licensing process for the active facilities.
- TDHCA MHD inspectors were trained on the requirements of HB 1099 so they could identify such facilities in their ongoing manufactured housing inspection activities across the state.

Locating Unlicensed Facilities

TDHCA continues to work to license all migrant labor housing facilities that fall under TDHCA's licensing jurisdiction. At this time, TDHCA has not identified any operating facilities that would require licensure that have not applied for and obtained licenses. However, as the inspectors from the MHD, in conducting other inspections, identify possible unlicensed activity, they will investigate and address it. To report a suspected unlicensed facility, please contact Bradlee Dansbee, TDHCA MHD, at 1-877-724-5676 or (806) 794-2105.

TDHCA is preparing a media effort that will target areas where large numbers of migrant laborers may be reached (such as the Lower Rio Grande River Valley and the Panhandle (during cotton season) to build awareness among workers of their right to have any housing that is subject to this law inspected, licensed, and operating in accordance with regulatory standards. It will also conduct outreach to agricultural labor advocacy groups to refer known or suspected facilities that are operating without required licenses.

MIGRANT FARMWORKER HOUSING PROGRAMS

Texas

As described in this report, HB 1099 transferred the responsibility for administering the laws regarding the licensing and supervision of migrant labor housing facilities from the HHSC to TDHCA.

Migrant farmworkers have been identified by TDHCA as a “special needs population.” This population is recognized as having distinct housing needs requiring individual attention with regard to housing assistance. While TDHCA does not currently have a specific program for migrant farmworkers, the Department has the following strategies to work to address the housing needs and increase the availability of affordable and accessible housing for persons with special needs through funding, research, and policy development efforts.

- Dedicate no less than 20 percent of the HOME project allocation for applicants that target persons with special needs.
- Compile information and accurately assess the housing needs of and the housing resources available to persons with special needs.
- Increase collaboration between organizations that provide services to special needs populations and organizations that provide housing.

Other Migrant Housing Programs in the United States

The following programs represent examples of other approaches that might be used to provide assistance to migrant farmworkers.

Florida

Florida’s Joint Legislative Commission on Migrant and Seasonal Labor was established to improve the conditions for migrant and seasonal labor and to reduce related problems. The Commission’s first report to the Florida Legislature was submitted in February 2006. The housing-related policy recommendations are to provide \$20 million in state funding for affordable farmworker housing and to support agriculture industry partnership with nonprofit organizations: industry provides land and infrastructure, nonprofits provide housing.¹⁹

California

California has established the Joe Serna Jr. Farmworker Housing Grant Program. This program is used to finance the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households. In 2002, Proposition 46 was passed by the voters, allocating \$200 million to the program. \$24 million of the allocation was set aside to fund projects targeted for migratory agricultural workers.²⁰

¹⁹Joint Legislative Commission on Migrant and Seasonal Labor, *Report to the Legislature*, (Tallahassee, FL: Florida House of Representatives and State of Florida Senate, February 2006), http://www.leg.state.fl.us/data/committees/joint/Jcml/Report_To_The_Legislature.pdf (accessed May 2, 2006).

²⁰California Department of Housing and Community Development, *Loan and Grant Program Directory*, (Sacramento, CA: Department of Housing and Community Development, Financial Assistance Division, February 2006), http://www.hcd.ca.gov/fa/L_and_G_2005_web_new_date.pdf (accessed May 8, 2006).

California's Department of Housing and Community Development has an Office of Migrant Services, whose purpose is to provide safe, decent, and affordable seasonal rental housing and support services for migrant farmworkers during the peak harvest season. This office provides grants to local government agencies that contract with the department to operate centers located throughout the state. The Department of Housing and Community Development obtains and administers funds for the construction and rebuilding of centers.²¹

USDA Rural Development

The Farm Labor Housing Program (Section 514/516) is the only federal program available for the development of housing for farmworkers. The goal of the program is to provide low-cost financing for the development of affordable rental housing for both year-round and migrant domestic farm laborers and their households. The primary tenant must be a US citizen or permanent resident employed as a domestic farm laborer. Retired or disabled domestic farm laborers are also eligible. This program is for off-farm housing only.

Loans are made to farmers, associations of farmers, family farm corporations, Indian tribes, nonprofit organizations, public agencies, and associations of farmworkers. Typically, loan applicants are unable to obtain credit elsewhere, but, in some instances, farmers able to get credit elsewhere may obtain loans at a rate of interest based on the cost of federal borrowing. Grants are made to farmworker associations, nonprofit organizations, Indian tribes, and public agencies. Funds may be used in urban areas for nearby farm labor.

Farm Labor Housing loans and grants are provided to buy, build, improve, or repair housing for farm laborers, including persons whose income is earned in aquaculture (fish and oyster farms) and those engaged in on-farm processing. Funds can be used to purchase a site or a leasehold interest in a site; to construct housing, day care facilities, or community rooms; to pay fees to purchase durable household furnishings; and to pay construction loan interest.

Generally, loans are for 33 years at 1 percent interest. Grants may cover up to 90 percent of development costs. The balance may be a Farm Labor Housing Program loan. Funds may be used to build, buy, improve, or repair labor housing and to provide related facilities.²²

Housing Assistance Council

HAC is a national nonprofit organization that works to improve the housing conditions for the rural poor. Two of their target groups are farmworkers and the southwest border colonias. HAC has rural seed money loan products that can be used by community-based, nonprofit

²¹California Department of Housing and Community Development, "Office of Migrant Services," (Sacramento, CA: Department of Housing and Community Development, Financial Assistance Division), <http://www.hcd.ca.gov/fa/oms/> (accessed on May 4, 2006).

²²USDA Rural Development, "Rural Development Housing & Community Facilities Programs," (Washington, DC: U.S. Department of Agriculture, Housing and Community Facilities Programs National Office) http://www.rurdev.usda.gov/rhs/mfh/brief_mfh_flh.htm (accessed Feb. 1, 2006).

Migrant Labor Housing Facilities in Texas

Housing Programs

organizations; housing development corporations; self-help housing sponsors; farm worker organizations; cooperatives; Indian tribes; public agencies; units of local government; public utility districts; and small business and minority contractors. HAC funds must be used for projects that include provisions for serving low income people.²³

National Farmworker Jobs Program: Housing Assistance

The National Farmworker Jobs Program, authorized by Congress and administered by the DOL, provides funding to local organizations to assist migrant farmworkers and their families attain economic stability. This program has a Housing Assistance component that provides funding to community-based organizations for housing supportive services. Assistance can include direct payments for emergency or temporary housing, direct investments in housing assistance, leveraging services to increase or maintain housing stock, and housing development designed to improve farmworker living conditions.²⁴

For program year 2005, \$4,544,685 in housing funds were awarded to 14 organizations.²⁵ One organization in Texas, serving both Texas and Louisiana, received \$455,000 for permanent housing activities and \$104,414 for temporary housing activities.

²³Housing Assistance Council, "Rural Seed Money Loan Products," (Washington, DC: Housing Assistance Council), http://www.ruralhome.org/servicesLoans_LoanProducts.php#predevelopment (accessed May 8, 2006).

²⁴ US Department of Labor, "National Farmworker Jobs Program," <http://www.doleta.gov/MSFW/pdf/facts.pdf> (accessed August 24, 2006).

²⁵ US Department of Labor, "National Farmworker Jobs Program: Program Year 2005 Housing Assistance Awards," <http://www.doleta.gov/sqa/awards/FarmworkerHousing%20PY%2004-07.pdf> (accessed August 24, 2006).

CONCLUSIONS

As a result of data analysis and references contained in this study, TDHCA has arrived at the following conclusions.

Language and legal status are issues that significantly impact the provision of housing and services for many migrant workers. The NAWS reported that 81 percent of the respondents indicated Spanish as their native language and 44 percent indicated that they could not speak English “at all.” The NAWS also indicated that 75 percent of survey respondents were born in Mexico, and 53 percent were not authorized to work in the US.²⁶

Currently there are 31 licensed facilities across the state with 633 units with a reported capacity of 3,245. TDHCA is confident that all licensed facilities, based on MHD inspections, meet current promulgated standards. Although there is speculation that other non-licensed housing solutions may not be of suitable quality, TDHCA does not have access to reliable data about the nature or condition of such housing solutions.

There is no published data that uses the statutory definition of migrant agricultural workers. The best available data indicates that this workforce could be on the magnitude of 132,000 workers. It appears that the Texas agricultural industry is able to obtain the necessary labor force to continue its orderly operation, and to the extent that these needs are being met by migrant agricultural workers who are not staying at licensed facilities, there are a number of other possible places they may be residing. Some may be suitable housing such as privately rented apartments, motels, homes of family or friends, and travel trailers. Other less suitable possibilities include living in motor vehicles, camping in the open, and the possibility of unknown facilities that should be licensed but are not.

The nature of this workforce makes it difficult to obtain more detailed information about their true housing situation. It should be noted that any systematic effort to perform an analysis of the housing situation of migrant agricultural workers, which likely exhibits similar characteristics, must address and overcome such obstacles as the following:

- While performing agricultural work, this migrant population may be exceptionally busy and not have the time to be interviewed.
- The profile presented by NAWS would be consistent with a group that would be very wary of being interviewed because of the fear that it would adversely impact their work status and/or because of cultural fears relating to official interviews.
- This group is very hard to follow to other locations, where it might be more likely to obtain candid and responsive interviews.

Because of these issues and limitations, TDHCA recommends that this situation be addressed initially through expanded education and outreach, making the migrant agricultural worker

²⁶ US Department of Labor, *Findings from the National Agricultural Workers Survey (NAWS) 2001-2002*, 3.

Migrant Labor Housing Facilities in Texas

Conclusions

community more aware of licensing requirements and more likely to report possible unlicensed activity. TDHCA also believes it appropriate to pursue an open and ongoing dialogue with farm worker advocacy groups to provide for a better understanding of where state and federal resources might most effectively assist both this sector of Texas residents and the larger agricultural industry, such as loans or other subsidies to improve and expand licensed facilities and the broadening of this sector's awareness of the array of other housing subsidies.

APPENDIX A. HOUSE BILL 1099

An act relating to migrant labor housing facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 147, Health and Safety Code, is transferred to Chapter 2306, Government Code, redesignated as Subchapter LL, Chapter 2306, Government Code, and amended to read as follows:

SUBCHAPTER LL [CHAPTER 147]. MIGRANT LABOR HOUSING FACILITIES

Sec. 2306.921 [147.001]. DEFINITIONS. In this subchapter [chapter]:

- (1) "Facility" means a structure, trailer, or vehicle, or two or more contiguous or grouped structures, trailers, or vehicles, together with the land appurtenant.
- (2) "Migrant agricultural worker" means an individual who:
 - (A) is working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry; and
 - (B) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment.
- (3) "Migrant labor housing facility" means a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers, whether rent is paid or reserved in connection with the use of the facility.
- (4) "Person" means an individual, association, partnership, corporation, or political subdivision.

Sec. 2306.922A [147.002]. LICENSE REQUIRED. A person may not establish, maintain, or operate a migrant labor housing facility without obtaining a license from the department.

Sec. 2306.923A [147.003]. LICENSE APPLICATION; APPLICATION INSPECTION.

- (a) To receive a migrant labor housing facility license, a person must apply to the department according to rules adopted by the board and on a form prescribed by the board.
- (b) The application must be made not later than the 45th day before the intended date of operation of the facility.
- (c) The application must state:
 - (1) the location and ownership of the migrant labor housing facility;
 - (2) the approximate number of persons to be accommodated;
 - (3) the probable periods of use of the facility; and
 - (4) any other information required by the board.
- (d) The application must be accompanied by the license fee.

Migrant Labor Housing Facilities in Texas

Appendices

Sec.A2306.924A[147.004]. INSPECTION. The department shall inspect the migrant labor housing facility not later than the 30th day after the date of receipt of a complete application and the fee.

Sec.A2306.925A[147.005]. FAILURE TO MEET STANDARDS;
REINSPECTION.

(a) If a migrant labor housing facility for which a license application is made does not meet the reasonable minimum standards of construction, sanitation, equipment, and operation required by rules adopted under this subchapter [chapter], the department at the time of inspection shall give the license applicant the reasons that the facility does not meet those standards. The applicant may request the department to reinspect the facility not later than the 60th day after the date on which the reasons are given.

(b) If a facility does not meet the standards on reinspection, the applicant must submit a new license application as provided by Section 2306.923 [146.003].

Sec.A2306.926A[147.006]. LICENSE ISSUANCE; TERM; NOT
TRANSFERABLE.

(a) The department shall issue a license to establish, maintain, and operate a migrant labor housing facility if the facility meets the standards of construction, sanitation, equipment, and operation required by rules adopted under this subchapter [chapter].

(b) The license expires on the first anniversary of the date of issuance.

(c) The license issued under this subchapter [chapter] is not transferable.

Sec.A2306.927A[147.007]. LICENSE POSTING. A person who holds a license issued under this subchapter [chapter] shall post the license in the migrant labor housing facility at all times during the maintenance or operation of the facility.

Sec.A2306.928A[147.008]. INSPECTION OF FACILITIES. An authorized representative of the department, after giving or making a reasonable attempt to give notice to the operator of a migrant labor housing facility, may enter and inspect the facility during reasonable hours and investigate conditions, practices, or other matters as necessary or appropriate to determine whether a person has violated this subchapter [chapter] or a rule adopted under this subchapter [chapter].

Sec. 2306.929A[147.009]. FEE. The board shall set the license fee in an amount not to exceed \$250 [\$100].

Sec. 2306.930A[147.010]. SUSPENSION OR REVOCATION OF LICENSE.

(a) The department may suspend or revoke a license for a violation of this subchapter [chapter] or a rule adopted under this subchapter [chapter].

(b) Chapter 2001[, Government Code] and department rules for holding a contested case hearing govern the procedures for the suspension or revocation of a license issued under this subchapter

[chapter].

(c) A hearing conducted under this section must be held in the county in which the affected migrant labor housing facility is located.

Sec.A2306.931A[147.011]. ENFORCEMENT; ADOPTION OF RULES.

(a) The department shall enforce this subchapter [chapter].

(b) The board shall adopt rules to protect the health and safety of persons living in migrant labor housing facilities.

(c) The board by rule shall adopt standards for living quarters at a migrant labor housing facility, including standards relating to:

(1) construction of the facility;

(2) sanitary conditions;

(3) water supply;

(4) toilets;

(5) sewage disposal;

(6) storage, collection, and disposal of refuse;

(7) light and air;

(8) safety requirements;

(9) fire protection;

(10) equipment;

(11) maintenance and operation of the facility; and

(12) any other matter appropriate or necessary for the protection of the health and safety of the occupants.

(d) An employee or occupant of a migrant labor housing facility who uses the sanitary or other facilities furnished for the convenience of employees or occupants shall comply with the rules adopted under Subsection (b) or (c).

(e) The board by rule shall adopt minimum standards for issuing, revoking, or suspending a license issued under this subchapter [chapter].

Sec. 2306.932 [147.012]. INJUNCTIVE RELIEF.

(a) A district court for good cause shown in a hearing and on application by the department, a migrant agricultural worker, or the worker's representative may grant a temporary or permanent injunction to prohibit a person, including a person who owns or controls a migrant labor housing facility, from violating this subchapter [chapter] or a rule adopted under this subchapter [chapter].

(b) A person subject to a temporary or permanent injunction under Subsection (a) may appeal to the supreme court as in other cases.

Sec.A2306.933A[147.013].AACIVIL PENALTY.

Migrant Labor Housing Facilities in Texas

Appendices

(a) A person who violates this subchapter [chapter] or a rule adopted under this subchapter [chapter] is subject to a civil penalty of \$200 for each day that the violation occurs.

(b) The county attorney for the county in which the violation occurred, or the attorney general, at the request of the department, shall bring an action in the name of the state to collect the penalty.

SECTION A2.AA

(a) On the effective date of this Act, all powers and duties of the Health and Human Services Commission and the Department of State Health Services relating to the inspection and licensing of migrant labor housing facilities are transferred to the Texas Department of Housing and Community Affairs. The Health and Human Services Commission, the Department of State Health Services, and the Texas Department of Housing and Community Affairs shall coordinate the transfer.

(b) The transfer does not affect the validity of any liability incurred, a license issued, a penalty assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by the executive commissioner of the Health and Human Services Commission, the commissioner of state health services, or the Department of State Health Services in connection with the inspection and licensing of migrant labor housing facilities.

(c) All rules, policies, procedures, and decisions of the executive commissioner of the Health and Human Services Commission, the commissioner of state health services, or the Department of State Health Services relating to the inspection and licensing of migrant labor housing facilities are continued in effect as rules, policies, procedures, and decisions of the governing board of the Texas Department of Housing and Community Affairs or the executive director of that department, as appropriate, until superseded by a rule or other appropriate action of the board or the executive director of the department.

(d) Any action or proceeding before the executive commissioner of the Health and Human Services Commission, the commissioner of state health services, or the Department of State Health Services relating to the inspection and licensing of migrant labor housing facilities is transferred without change in status to the governing board of the Texas Department of Housing and Community Affairs or the executive director of the department, as appropriate, and the board or the executive director of the department assumes, without a change in status, the position of the executive commissioner or the commissioner in any action or proceeding to which the executive commissioner or commissioner is a party.

(e) The Texas Department of Housing and Community Affairs shall adopt fees, rules, and standards as required by Subchapter LL, Chapter 2306, Government Code, as transferred and redesignated by this Act, not later than January 1, 2006.

(f) The Texas Department of Housing and Community Affairs shall survey and research the quantity, availability, need, and quality of migrant labor housing facilities in this state and shall produce reports of its findings to the legislature not later than September 1, 2006.

SECTION A3.AA This Act takes effect September 1, 2005.

APPENDIX B. MAP OF ESTIMATED NUMBER OF MIGRANT FARMWORKERS AND NON FARMWORKERS IN MIGRANT HOUSEHOLDS WITHIN EACH TEXAS COUNTY

Prepared by the Texas Department of Housing and Community Affairs. The map's data source for the distribution of migrant farmworkers and their families is from: US Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care, *Migrant and Seasonal Farmworker Enumeration Profiles Study: Texas*.



- 0 Migrant farmworkers and nonfarmworkers in migrant households
- 1 - 100 Migrant farmworkers and nonfarmworkers in migrant households
- 101 - 500 Migrant farmworkers and nonfarmworkers in migrant households
- 501 - 1,000 Migrant farmworkers and nonfarmworkers in migrant households
- 1,000 - 5,000 Migrant farmworkers and nonfarmworkers in migrant households
- More than 5,000 Migrant farmworkers and nonfarmworkers in migrant households
- Counties indicating a need for migrant farmworker housing
- Counties containing licensed migrant farmworker housing facilities as of May 2006

APPENDIX C. CHAPTER 90. MIGRANT LABOR HOUSING FACILITIES 10 TAC §§90.1 - 90.8

The Texas Department of Housing and Community Affairs (the Department) adopts a new Chapter concerning Migrant Labor Housing Facilities, §§90.1-90.8, with changes to the proposed text, as published in the October 28, 2005 issue of the *Texas Register* (30 TexReg 6984).

The purpose of this Chapter is to provide for the licensing and supervision of migrant labor housing facilities, in accordance with Texas Government Code, §§2306.921-2306.933. This rule is adopted pursuant to HB 1099 (79th Legislature, Regular Session), which transferred from the Department of State Health Services ("DSHS") to the Texas Department of Housing and Community Affairs ("TDHCA") responsibility for administering the laws regarding the licensing and supervision of migrant labor housing facilities. Chapter 147, Texas Health and Safety Code, was transferred to Texas Government Code, §§2306.921-2306.933. This law requires that a license (one year license with a fee not to exceed \$250) must be obtained in order to operate a migrant labor housing facility in the state of Texas; a facility must be inspected before it can be licensed, and TDHCA must conduct a survey of migrant labor housing and report its findings to the Legislature by September 2006.

Comments were received from Texas Low Income Housing Information Service, Texas Rio Grande Legal Aid, and the United Farm Workers of America.

Several commenters asked that the rules require that all windows and doors have working locks. TDHCA agrees with this and §90.2(d)(1) of the rules has been revised to reflect this.

Several commenters suggested requiring that the units be equipped with smoke detectors. TDHCA agrees with this and §90.2(d)(1) of the rules has been revised to reflect this.

Several commenters asked that facilities providing water provide for hot and cold water to be mixed in a single faucet to control temperature. TDHCA agrees with this and §90.2(b)(7) of the rules has been added to reflect this.

Several commenters asked that children of opposite genders not be required to share a bed and that two unmarried adults of any gender not be required to share a bed. TDHCA agrees with this and §90.2(f)(1) of the rules has been revised to reflect this.

Several commenters urged that the rules provide that all units eligible to be occupied be inspected, not just a sample. TDHCA agrees with this and §90.3(g) of the rules has been revised to reflect this.

Several commenters expressed a desire that the procedures for complaints be expanded to provide a toll-free bilingual hotline for complaints, a uniform poster to advise occupants of the complaint process and the toll-free number. They asked that the complaint process provide for investigation within ten (10) days (or as soon as possible in matters involving potential health

and safety hazards) and that there be procedures to protect the confidentiality and anonymity of complaints. They asked that there be sanctions for a licensee that engages in retaliation against someone for making a complaint. TDHCA agrees with this and §90.5 of the rules has been revised to reflect this. The general provision on assessing administrative penalties would apply to any retaliatory action on the basis that it was a violation of these rules.

The above described changes made in response to public comment received are not viewed as substantive changes and these rules are hereby adopted with such changes.

The new chapter is adopted with changes, pursuant to the authority of the Texas Government Code, Chapter 2306.

The new Chapter affects no other code, article or statute.

§90.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Act -- the state law that governs the operation and licensure of migrant labor housing facilities in the state of Texas, found at Texas Government Code, §§2306.921 - 2306.933.
- (2) Board -- The governing board of the Texas Department of Housing and Community Affairs.
- (3) Business Day -- any day that is not a Saturday, Sunday, or a holiday observed by the State of Texas.
- (4) Business hours -- 8 a.m. to 5 p.m., local time.
- (5) Department -- The Texas Department of Housing and Community Affairs.
- (6) Director -- The Executive Director of the Department.
- (7) Facility -- a structure, trailer, or vehicle, or two or more contiguous or grouped structures, trailers, or vehicles, together with the land appurtenant.
- (8) Family -- a group of people, whether legally related or not, that act as and hold themselves out to be a family; provided, however, that nothing herein shall be construed as creating or sanctioning any unlawful relationship or arrangement such as the custody of an unemancipated minor by a person other than their legal guardian.
- (9) Licensee -- any person that holds a valid license issued in accordance with the Act.
- (10) Migrant labor housing facility -- a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers, whether rent is paid or reserved in connection with the use of the facility.
- (11) Occupant -- any person, including a worker, who uses a migrant labor housing facility for housing purposes.
- (12) Operator -- any individual designated in an application for a license to operate a migrant labor housing facility or in signed correspondence from a licensee to the Department as

having authority to act on behalf of the a licensee to administer day-to-day operation of that migrant labor housing facility and to respond to complaints, investigations, inspections, orders, and other matters as set forth in these rules.

- (13) Worker -- A migrant agricultural worker, as defined in the Act, being an individual who is (a) working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry and (b) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment.

§90.2.Facilities.

(a) Facility site.

- (1) Facility sites shall be well drained and free from depressions in which water may stand. Sinkholes, pools, swamps, or other surface collectors of water within 200 feet of the periphery of the site shall be drained, filled, or treated on an ongoing basis to prevent mosquito breeding. If they are drained or filled, this must be done so as not to create a hazard. If they are treated, they must be appropriately fenced if they present would present a hazard or attractive nuisance, such as a place where children might play or pets might drink.
- (2) Facility sites shall be made and kept free from any conditions not conducive to housing such as conditions which create offensive odors, attract flies, create excessive noise, allow unregulated traffic, create a risk of fire, pose any other risk to safety, contribute to or permit flooding, result in or contribute to overcrowding, or create or promote the creation, perpetuation, or exacerbation of any other condition which would reasonably be viewed as hazardous or inappropriate to a living facility.
- (3) Grounds within the facility site shall maintained so as to be free from debris, noxious plants (poison ivy, etc.) uncontrolled weeds, or brush.
- (4) Facility sites shall have recreation space for the facility occupants based on the maximum facility capacity.
- (5) Facility sites shall be located at least 500 feet from livestock pens or any place where livestock is kept or fed.
- (6) The housing site shall not be subject to periodic flooding or located so the drainage from and through the site will endanger any domestic or public water supply or enter or surround any living facility.

(b) Water supply.

- (1) A water supply which meets the provisions of Health and Safety Code, Chapter 341, and the Texas Commission on Environmental Quality's public drinking water standard, Texas Administrative Code, Title 30, Part 1, Chapter 290, Subchapter F, §§290.101 - 290.115, 290.117 - 290.119, and 290.121 and 290.122 (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems), shall be available at all times in each facility.
- (2) When the water supply does not meet the standards, notice shall be given to facility occupants and posted in a conspicuous location in the facility site. Such notice shall be

given in English the language primarily used at the migrant labor housing facility if other than English AND shall display a universal symbol that such water is unsafe for consumption. Approved bottle water shall be provided to the occupants.

- (3) Facilities shall be connected to an existing public water supply system, if one is available.
 - (4) Adequate arrangements for provision of hot water for bathing, laundering, culinary, and dishwashing purposes shall be available in all facility sites.
 - (5) Facility sites shall provide water under pressure (a minimum of 20 psi and a minimum static of 35 psi) to each living arrangement and utility building.
 - (6) In common use arrangements, dining halls, recreation, and meeting rooms, drinking fountains shall be provided for each 100 occupants or fraction thereof and all such drinking fountains shall meet American National Standards Institute standards, "Specification for Drinking Fountains 2.4.2-1942."
 - (7) Each sink that provides both hot and cold water shall provide them through a single faucet that enables hot and cold water to be mixed to adjust the temperature.
- (c) Excreta and liquid waste disposal.
- (1) Arrangements shall be provided and maintained for effective sewage disposal. Raw or treated liquid waste shall not be discharged or allowed to accumulate on the ground surface or in any place other than a proper sewage disposal facility.
 - (2) Arrangements for disposal of excreta and liquid waste shall be connected to a public sewer system, if available.
 - (3) All other disposal systems, (such as septic tanks, liquid waste treatment, privies, and portable toilets) shall be constructed and maintained as required by the Texas Department of Health.
 - (4) Portable toilet rooms not ventilated by mechanical means shall be provided with adequate screened (16 mesh) ventilation openings.
- (d) Facilities.
- (1) Facilities shall be constructed in a manner to insure the protection of occupants against the elements. Facilities shall be maintained in good repair and in a sanitary condition. All doors to the exterior shall have working locks and all windows shall have working interior latches. Each unit shall have a working smoke detector.
 - (2) Facilities shall have flooring constructed of smooth finished, rigid materials and be readily cleanable. The flooring shall be installed so as to prevent entrance of ground or surface water into the facility.
 - (3) In living arrangements utilized for combined cooking, eating, and sleeping purposes, no less than 100 square feet of floor space shall be provided for each occupant over 18 months of age. Rooms used for sleeping purposes only shall provide at least 50 square feet of floor space for each intended occupant.
 - (4) Facilities utilized by families with children shall have a separate room or partitioned sleeping area for the husband and wife. The partition shall provide privacy and shall not adversely affect the meeting of any other standard hereunder, including the availability of light and access to exits.

Migrant Labor Housing Facilities in Texas

Appendices

- (5) In dormitory-type facilities, separate sleeping accommodations shall be provided for each sex. In family housing units, separate sleeping accommodations shall be provided for each family unit.
 - (6) Adequate, separate arrangements for each person or family to hang clothes and store personal effects shall be provided.
 - (7) The total floor area of each habitable room in a facility shall have a minimum ceiling height of seven feet.
 - (8) Each habitable room shall have at least one window or skylight opening directly to the outside. The minimum total window or skylight area, including windows and doors, shall equal at least 10% of the usable floor area. The total area that can be opened shall equal at least 45% of the minimum window or skylight area required, except where comparable adequate ventilation is supplied by mechanical or some other method.
 - (9) Facilities previously used to mix, load, or store pesticides and toxic chemicals may not be used for cooking, dishwashing, eating, sleeping, housing purposes, or other similar purposes.
- (e) Cooking and eating arrangements.
- (1) When workers or their families cook in their individual units, space shall be provided and equipped for cooking and eating. Each such space shall be provided with:
 - (A) a working stove with a minimum of four operating burners;
 - (B) adequate food storage shelves and a counter for food preparation; if children under the age of six years will be present, such storage facilities shall include a container with childproof locks in which to store any cleaning agents or similar dangerous substances that may be used in connection with food preparation and clean-up, and this container shall be separate and apart for any place or container for food storage;
 - (C) provisions for mechanical refrigeration of food at a temperature of not more than 45 degrees F.;
 - (D) eating arrangements (table and chairs or equivalent) commensurate with the maximum capacity of the unit;
 - (E) adequate sinks with hot and cold water under pressure; and
 - (F) adequate lighting and ventilation.
 - (2) When workers or their families cook and eat in a communal room or building separate from their sleeping accommodations, each such room or building shall be provided with:
 - (A) a working stove with a minimum of four operating burners, in a ratio of one stove to 10 persons, or one stove to two families;
 - (B) adequate food storage shelves and a counter for food preparation;
 - (C) mechanical refrigeration for food at a temperature of not more than 45 degrees F.;
 - (D) eating arrangements (tables and chairs or equivalent) commensurate with the intended use of the room or building;
 - (E) adequate lighting and ventilation; and
 - (F) nonabsorbent floors of easily cleanable materials.

- (3) In a central mess or multifamily feeding operation, the kitchen and mess hall shall be constructed in accordance with department rules on food services sanitation, 25 TAC §§229.161 - 229.171 (relating to Food Service Sanitation), and
 - (A) shall be a size in proper proportion to the facility capacity and separate from the sleeping quarters;
 - (B) floors, walls, ceiling, tables, and shelves of all kitchens, dining rooms, refrigerators, and food storage rooms shall be maintained in a clean, sanitary condition;
 - (C) the exterior wall opening of all dining rooms shall be screened (16 mesh) and rendered fly-tight; and,
 - (D) screen doors shall be self-closing and installed to open outward from the area to be protected.
- (f) Sleeping arrangements.
 - (1) Sleeping arrangements (beds, metal frame cots, or bunks complete with springs, mattresses, and mattress covers) in good repair shall be provided for facility occupants. Sleeping arrangements shall be cleaned and maintained in a sanitary condition. No bed shall be used by more than two occupants. Children of opposite genders shall not be required to share a bed and two unmarried adults of either gender shall not be required to share a bed.
 - (2) Mattresses and mattress covers shall be laundered and sanitized between assignment to different occupants.
 - (3) Beds, bunks, or cots shall have a clear space of at least 12 inches from the floor. Triple-deck facilities shall be prohibited. Single beds shall be spaced not closer than 36 inches laterally or end to end. Bunk beds shall be spaced not less than 48 inches laterally or 36 inches end to end. There shall be a clear ceiling height above a mattress of not less than 36 inches. The clear space above the lower mattress of the bunk beds and the bottom of the upper bunk shall not be less than 27 inches.
- (g) Heating.
 - (1) All living quarters and service rooms shall be provided with properly installed, operable heating equipment that capable at all times of maintaining a temperature of at least 68 degrees F. If heating is centrally controlled, all areas affected shall be maintained at least 68 degrees F. at all times.
 - (2) All heating systems shall be failsafe in case of failure or interruption of the power or fuel source.
 - (3) All walls or ceilings within 18 inches of the stovepipe of a solid or liquid fuel stove shall be of fireproof material.
 - (4) All stoves or other sources of heat utilizing combustible fuel shall be installed to prevent fire and safety hazards. A vented metal collar shall be installed around a stovepipe, or any vent passing through a wall, ceiling, floor, or roof.
 - (5) All stove or other sources of heat utilizing combustible fuel shall be vented to prevent fire and safety hazards. All vents shall extend above the peak of the roof.
 - (6) If solid or liquid fuel stoves are used in a room with wooden or other combustible flooring, they shall be placed on a concrete slab, insulated metal sheets, or other fireproof

materials sufficient to prevent the transfer of heat to the floor and such material shall extend at least 18 inches beyond the perimeter of the base of the stove.

- (7) If portable heaters are provided they must be electric and UL approved, and the electricity supply to the unit where they are to be used must be sufficient to permit their operation without disruption other things in that unit requiring electricity to operate, such as stoves, lights, and other appliances.

(h) Bathrooms and laundry rooms.

- (1) Bathrooms in family living accommodations shall be separate from other rooms to insure privacy.
- (2) Sufficient bathrooms (including bathtubs, showers, and lavatory sinks) and laundry rooms for the occupants of each living arrangement shall be located within 200 feet of each living arrangement.
- (3) Bathrooms and laundry rooms shall be constructed in a manner conducive to good repair and shall be maintained in good repair and in a sanitary condition.
- (4) Shower flooring shall be constructed of nonabsorbent, nonskid materials and shall have properly constructed and functioning floor drains.
- (5) Communal bathrooms shall have bathing arrangements, hand washing arrangements, and dry dressing space for each sex separated by a solid nonabsorbent wall extending from the floor to ceiling to insure privacy. Communal bathrooms shall be designated "men" or "women" in English and in the language of the facility occupants, or in the universal symbols.
- (6) Communal bathrooms shall have a minimum of one showerhead per 10 persons and one lavatory sink per six persons. Showerheads shall be spaced at least three feet apart to insure a minimum of nine square feet of showering space per showerhead.
- (7) In all communal bathrooms separate shower stalls shall be provided.
- (8) Mechanical clothes washers shall be provided in a ratio of one per 50 persons. In addition to mechanical clothes washers, one laundry tray per 100 persons shall be provided. In lieu of mechanical clothes washers, one laundry tray or tub per 25 persons may be provided.
- (9) Arrangements for drying clothes shall be provided.

(i) Toilets.

- (1) Toilets shall be located within 200 feet of each living arrangement. No privy shall be located within 100 feet of any living arrangement, dining room, mess hall, or kitchen.
- (2) Sufficient toilets for the occupants of each living arrangement shall be constructed in a manner conducive to good repair and maintained in a sanitary condition. Privies shall be fly proof and of adequate capacity.
- (3) Communal accommodations shall have toilets for each sex separated by a solid wall from floor to ceiling and shall be designated "men" or "women" in English and in the language of the facility occupants, or in universal symbols.
- (4) Communal toilet rooms shall be lighted naturally or artificially by a safe type of lighting and shall be well ventilated, all outside openings shall be screened with 16 mesh material.

- (5) Water closets or privy seats shall be provided in a ratio of one per 15 persons of each sex. A minimum of one for each sex shall be provided in communal accommodations. Family living accommodations containing private toilets will not be considered when establishing the number of shared toilets.
 - (6) Urinals may be substituted for men's toilet seats in a ratio of one urinal of 24 inches of trough-type urinals per toilet seat to a maximum of one-third of the required toilet seats.
 - (7) Urinals and the surrounding walls and floor shall be constructed of nonabsorbent material.
- (j) Garbage and other refuse.
- (1) Containers with tight fitting lids for garbage and other refuse storage shall be provided to and located within 100 feet of each living accommodation. Containers of up to 32 gallon capacity may be used. They shall be supplied in a ratio of one per living accommodation. Bulk type containers may be used. Lost or damaged containers must be promptly replaced.
 - (2) Containers shall be durable, in good repair, and maintained in a sanitary condition.
 - (3) Garbage and refuse shall be collected at least twice a week. Disposal of garbage and refuse shall be in accordance with requirements of the Texas Department of Health concerning solid waste management, 25 TAC Chapter 325 (relating to Solid Waste Management).
- (k) Electricity and lighting.
- (1) All facility sites shall be provided with electricity. The electrical systems shall conform to all applicable codes and shall be sufficient to provide the electricity with sufficient amperage to operate all required and available features, including but not limited to lighting, stoves, hot water heaters, heating systems, portable heaters, refrigeration, and such other devices as may be connected to wall type convenience outlets.
 - (2) Each habitable room and all communal rooms and areas (laundry rooms, toilets, privies, hallways, stairways, etc.) shall contain ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet shall be provided in each individual living room.
 - (3) Lighting shall be provided in the yard area and pathways to communal arrangements.
 - (4) All wiring and lighting fixtures shall be installed and maintained in a safe condition in accordance with National Electrical Code and state and local codes.
 - (5) 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.
- (l) Screening.
- (1) All outside opening shall be protected with screening of 16 mesh or less.
 - (2) All screen doors shall be tight and equipped with self-closing devices.
 - (3) All screens shall be maintained in good repair.
- (m) Insect and rodent control.
- (1) Housing sites, housing units, and utility areas shall be constructed to exclude insects, rodents, and other vermin.

Migrant Labor Housing Facilities in Texas

Appendices

- (2) A vector control program shall be maintained to insure effective control of all insects, rodents, and other vermin.
 - (3) All vector control programs shall be designed and executed to insure maximum protection of the occupants.
- (n) Fire, safety, and first aid.
- (1) All buildings or structures shall be maintained and used in accordance with the provisions of the state and local regulations.
 - (2) In one story facilities utilized by less than 10 persons, two means of escape shall be provided. One of the two required means of escape may be a readily accessible window with a space that can be opened of not less than 24 inches by 24 inches.
 - (3) Central dining facilities, assembly rooms, and all sleeping quarters intended for use by 10 or more persons shall have, as alternate means of escape, at least two remotely separated doors that open to an interior hallway or to the outside.
 - (4) Sleeping quarters and assembly rooms located on a second story shall have a stairway, plus permanently affixed exterior ladder or a second stairway.
 - (5) Fire extinguishing equipment shall be provided in an accessible place located within 100 feet from each facility. Such equipment shall provide protection equal to a 2 1/2 gallon stored pressure of five gallon pump type water extinguisher.
 - (6) First aid supplies shall be provided and be accessible at all times. The supplies shall be equivalent to the 16 unit first aid kit recommended by the American Red Cross, and shall be provided in a ratio of one to 50 persons. First aid kits shall be distributed and placed conspicuously throughout the migrant labor housing facility.
 - (7) Flammable or volatile liquids or materials, except those needed for household use other than use as fuel, shall not be stored in or adjacent to rooms used for living purposes.
 - (8) Agricultural pesticides and toxic chemicals other than those commonly regarded as being for household use, such as cleaning agents, shall not be stored within the facility site. Any pesticide or other toxic materials, and any potentially hazardous implements or equipment, kept within 500 feet of the facility site shall be stored in a secure, locked enclosure.

§90.3.Licensing.

- (a) Texas Government Code, §2306.922 requires the licensing of migrant labor housing facilities.
- (b) Any person who wants to apply for a license to operate a facility may obtain the application form from the Department. The required form is Appendix A to these rules.
- (c) An application must be submitted to the Department at least 45 days prior to the intended operation of the facility, but no more than 60 days.
- (d) The fee for a license is \$250, and the license is valid for one year unless sooner revoked or suspended.
- (e) Fees shall be tendered by check or money order payable to the Texas Department of Housing and Community Affairs. If any check or other instrument given in payment of a

licensing fee if returned for any reason, any license that has been issued in reliance upon such payment being made is null and void.

(f) A fee, when received in connection with an application is earned and is not subject to refund.

(g) Within 30 days of the receipt of a complete application and fee, the facility shall be inspected by an authorized representative of the Department. Inspections shall be conducted during business hours on business days and shall cover all units that are subject to being occupied .

(h) The person performing the inspection on behalf of the Department shall prepare a report of findings of that inspection.

(1) If the person performing the inspection finds that the migrant labor housing facility, based on the inspection, will be in compliance with §90.2 of these rules, and the Director finds that there is no other impediment to licensure, the license will be issued.

(2) If the person performing the inspection finds that although one or more deficiencies were noted that will require timely corrective action which may be confirmed by the operator without need for re-inspection, and the Director finds that there is no other impediment to licensure, the license will be issued subject to such conditions as the Director may specify. The applicant may, by signed letter, agree to these conditions, request a re-inspection within 60 days from the date of the Director's letter advising of the conditions, or treat the Director's imposing of conditions as a denial of the application.

(3) If the person performing the inspection finds that although one or more deficiencies were noted that will require timely corrective action, the deficiencies are of such a nature that a re-inspection is required, the applicant shall address these findings and advise the inspector, within 60 days from the date of written notice of the findings, of a time when the facility maybe re-inspected. If the results of the re-inspection are satisfactory and the Director finds that there is no other impediment to licensure, the license will be issued.

(4) If the person performing the inspection finds that the migrant labor housing facility is in material non-compliance with §90.2 of these rules or that one or more imminent threats to health or safety are present, the Director may deny the Application.

(i) If the Director determines that an application for a license ought to be granted subject to one or more conditions, the Director shall issue an order accompanying the license, and such order shall:

(1) Be clearly incorporated by reference on the face of the license;

(2) Specify the conditions and the basis in law or rule for each of them; and

(3) Such conditions may include limitations whereby parts of a migrant labor housing facility may be operated without restriction and other parts may not be operated until remedial action is completed and documented in accordance with the requirements set forth in the order.

(j) Correspondence regarding an application should be addressed to: Texas Department of Housing and Community Affairs Attention: Migrant Labor Housing Facilities PO BOX 12489 AUSTIN TX 78711-2489

(k) Within 14 days of the date of receipt of an application and license fee, the Department shall issue a written notice informing the applicant that the application is complete and accepted for

Migrant Labor Housing Facilities in Texas

Appendices

filing, or, if the application is deficient, a letter specifying what is else needed in order to process the application.

(l) An applicant or licensee that wishes to appeal any order of the Director, including the appeal of a denial of an application for a license or an election to appeal the imposing of conditions upon a license, may appeal such order by sending a signed letter to the Director within thirty (30) days from the date specified on such order, indicating the matter that they wish to appeal.

§90.4.Records.

(a) Each licensee shall maintain on premises, available for inspection by the Department, the following records:

- (1) Copies of all correspondence to and from the Department. This shall include the current designation of each Operator;
- (2) A current list of the occupants of the facility and the date that the occupancy of each commenced;
- (3) Documentation establishing that all bedding facilities were sanitized prior to their being assigned to the current occupant; and
- (4) Copies of any and all required federal, state, or local approvals and permits, including but not limited to any permits to operate a waste disposal system or a well or other water supply, and any correspondence or from such approving or permitting authorities.

(b) All such records shall be maintained for a period of at least two years.

§90.5.Complaints.

(a) If the Department receives any complaint, it shall investigate it by appropriate means, including the conducting of a complaint inspection. Any complaint inspection will be conducted after giving the Operator notice of the inspection and an opportunity to be present. The complainant will be contacted by the Department within ten (10) days of making a complaint or, if a possible safety or health issue is involved, as promptly as reasonably possible.

(b) A licensee, through its Operator, shall be provided a copy of any complaint (or, if the complaint was made verbally, a summary of the matter) and given a reasonable opportunity to respond. Generally, this shall be ten (10) business days.

- (1) Complaints may be made in writing or by telephone to 1-877-724-5676.
- (2) Complaints may be made in Spanish or in English.
- (3) To the fullest extent permitted by applicable law, the identity of any complaint shall be maintained as confidential (unless the complainant specifically consents to the disclosure of their identity or requests that the Department disclose their identity).
- (4) Licensees and operators shall not engage in any retaliatory action against an occupant for making a complaint in good faith.
- (5) A Licensee shall post in at least one conspicuous location in a facility the following notice in at least 20 point bold face type: If you have concerns or problems with the condition or operation of this facility or your unit, the Texas Department of Housing and Community Affairs (the "Department") is the state agency that licenses and oversees this facility. You may make a complaint to the Department by calling, toll-free, 1-877-724-5676, or by

writing to Migrant Labor Housing, TDHCA, 4413 82nd Street, Lubbock, TX 79424-3366. This office has staff that speaks Spanish. To the fullest extent that we can, we will keep your identity confidential. The Department's rules prohibit any facility or operator from retaliating against you for making a complaint. Si Usted tiene preocupaciones o problemas con la condición u operación de esta instalación o su unidad, el Departamento de Vivienda y Asuntos Comunitarios del Estado de Texas (El Departamento o TDHCA) es la agencia que da licencia y supervisa esta instalación. Usted puede mandar sus quejas al Departamento por teléfono gratuitamente por marcando 1-877-724-5676 u escribiendo a Migrant Labor Housing, TDHCA, 4412 82nd Street, Lubbock, TX 79424-3366. La oficina tiene personal que habla español. A lo mas posible que podemos, protegeremos su identidad. Las regulaciones del Departamento prohíben cualquier represalias por la instalación u el operador contra personas que se quejen contra ellos.

- (c) If any complaint involves matters that could pose an imminent threat to health or safety, all time frames shall be accelerated, and such complaint shall be addressed as expeditiously as possible.
- (d) The Department may conduct interviews, including interviews of operators and occupants, and review such records as it deems necessary to investigate a complaint.
- (e) The Department shall review the findings of any inspection and its review and, if it finds a violation of the Act or these rules to have occurred, issue a notice of violation.
- (f) A notice of violation and order will be sent to the Licensee to the attention of the Operator.
- (g) The notice of violation will set forth:
 - (1) The complaint or other matter made the subject of the notice;
 - (2) The findings of fact;
 - (3) The specific provisions of the Act and or these rules found to have been violated;
 - (4) The required corrective action;
 - (5) Any administrative penalty or other sanction to be assessed; and
 - (6) The timeframe for the Licensee either to agree to the recommended corrective action, and accept the administrative penalties and/or sanctions or appeal or to appeal the matter.
- (h) The order will set forth:
 - (1) The complaint or other matter made the subject of the order;
 - (2) The findings of fact;
 - (3) The specific provisions of the Act and or these rules found to have been violated;
 - (4) The required corrective action;
 - (5) Any administrative penalty or other sanction assessed; and
 - (6) The date on which the order becomes effective if not appealed or otherwise resolved.

§90.6. Administrative Penalties and Sanctions.

- (a) When the Director finds that the requirements of the Act or these rules are not being met, he or she may assess administrative penalties or impose other sanctions as set forth below. Nothing herein limits the right, as set forth in the Act, to seek injunctive relief.

Migrant Labor Housing Facilities in Texas

Appendices

- (b) For each violation of the Act or rules a penalty of up to \$200 may be assessed.
- (c) For violations that present an imminent threat to health or safety, if not promptly addressed, the Director may suspend or revoke the affected license.

§90.7. Dispute Resolution, Appeals, and Hearings.

- (a) A licensee is entitled to appeal any order issued by the Director, including any order as a result of an inspection or a complaint and any order denying a license or issuing a license subject to specified conditions.
- (b) In lieu of or during the pendency of any appeal, a licensee may request to meet with the Director or, at his or her option, his or her designee to resolve disputes. Any such meeting may be by telephone or in person. Meetings in person shall be in the county where the migrant labor housing facility affected is located unless the licensee agrees otherwise.
- (c) A licensee may request alternative dispute resolution in accordance with the Department's rules regarding such resolution set forth at 10 TAC, §1.17.
- (d) All appeals are contested cases subject to and to be handled in accordance with Chapter 2001, Texas Government Code.

§90.8. Forms.

Appendix A -Application for a License to Operate a Migrant Labor Housing Facility form
This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on December 19, 2005.

APPENDIX D. REPORT OF INSPECTION MIGRANT LABOR HOUSING FACILITY

Name and location of facility inspected: _____

No. of units: _____
 License number: _____
 Population: _____

Date of inspection: _____ Inspector: _____

Representative(s) of licensee present: _____

Purpose of inspection: New license Renewal Routine Complaint

References to rule sections are to 10 TAC Chapter 90. For full, exact text of the section cited, see the rules, which may be accessed on the TDHCA website at: www.tdhca.state.tx.us.

	OK	Dev	Comment
Facility Site	<input type="checkbox"/>	<input type="checkbox"/>	
1. Sec. 90.2 (a) (1) Site must be well-drained, free from depressions in which water may stand. Natural sinkholes, pools, swamps or other surface collectors of water within 200 feet must be drained.	<input type="checkbox"/>	<input type="checkbox"/>	
2. Sec. 90.2 (a) (2) Site free from odors, flies, noise, traffic, fire, threats to safety, flooding, overcrowding, or similar hazards.	<input type="checkbox"/>	<input type="checkbox"/>	
3. Sec. 90.2 (a) (3) Site free from debris/noxious plants, uncontrolled weeds or brush	<input type="checkbox"/>	<input type="checkbox"/>	
4. Sec. 90.2 (a) (4) Adequate recreational space provided.	<input type="checkbox"/>	<input type="checkbox"/>	
5. Sec. 90.2 (a) (5) No livestock feeding pens within 500 feet.	<input type="checkbox"/>	<input type="checkbox"/>	
6. Sec. 90.2 (a) (6) Site not subject to periodic flooding or located so that drainage from and through site would endanger water supply.	<input type="checkbox"/>	<input type="checkbox"/>	
Water Supply	<input type="checkbox"/>	<input type="checkbox"/>	
7. Sec. 90.2 (b) (1) Water supply must meet standards.	<input type="checkbox"/>	<input type="checkbox"/>	
8. Sec. 90.2 (b) (2) If water supply does not meet standards, notices must be posted and bottled water must be provided.	<input type="checkbox"/>	<input type="checkbox"/>	
9. Sec. 90.2 (b) (3) Facility must be connected to public water if possible.	<input type="checkbox"/>	<input type="checkbox"/>	
10. Sec. 90.2. (b) (4) Adequate arrangements for hot water for bathing, laundry, cooking, and dishwashing in all facility sites.	<input type="checkbox"/>	<input type="checkbox"/>	
11. Sec. 90.2 (b) (5) Water pressure at least 20 psi and minimum static of 35 psi for each living arrangement and utility building	<input type="checkbox"/>	<input type="checkbox"/>	
12. Sec. 90.2 (b) (6) Adequate drinking fountains in common areas and dining facilities.	<input type="checkbox"/>	<input type="checkbox"/>	
13. Sec. 90.2 (b) (7) Each sink should provide hot and cold water through a single faucet that enables hot and cold water to be mixed to adjust the temperature	<input type="checkbox"/>	<input type="checkbox"/>	
Waste Disposal/Sanitation	<input type="checkbox"/>	<input type="checkbox"/>	
14. Sec. 90.2 (c) (1) Effective sewage disposal. No sewage on surface.	<input type="checkbox"/>	<input type="checkbox"/>	
15. Sec. 90.2 (c) (2) Connected to sewer systems, if available	<input type="checkbox"/>	<input type="checkbox"/>	
16. Sec. 90.2 (c) (3) All other disposal systems (septic, portable toilets, etc.) conform to Texas Department of Health Standards	<input type="checkbox"/>	<input type="checkbox"/>	
17. Sec. 90.2 (c) (4) Portable toilets not mechanically ventilated have adequate screened ventilation openings.	<input type="checkbox"/>	<input type="checkbox"/>	
Facilities	<input type="checkbox"/>	<input type="checkbox"/>	
18. Sec. 90.2 (d) (1) Constructed to protect from the elements. Good repair and sanitary conditions. Each unit shall have a smoke detector	<input type="checkbox"/>	<input type="checkbox"/>	
19. Sec. 90.2 (d) (2) Smooth, rigid, readily cleanable flooring. Ground water cannot enter.	<input type="checkbox"/>	<input type="checkbox"/>	

Migrant Labor Housing Facilities in Texas

Appendices

20. Sec. 90.2 (d) (3) Combined cooking/eating, sleeping arrangements have at 100 SF per person for 18 months and over; sleeping facilities have at least 50 SF per person	<input type="checkbox"/>	<input type="checkbox"/>	
21. Sec. 90.2 (d) (4) Facilities for families with children have a separate room or partitioned area for husband and wife.	<input type="checkbox"/>	<input type="checkbox"/>	
22. Sec. 90.2 (d) (5) Dormitory facilities are separated for each sex. Family housing units have separate accommodations by family.	<input type="checkbox"/>	<input type="checkbox"/>	
23. Sec. 90.2 (d) (6) Adequate separate places for each person to hang clothes and store personal effects for each person.	<input type="checkbox"/>	<input type="checkbox"/>	
24. Sec. 90.2 (d) (7) Minimum ceiling height is 7ft..	<input type="checkbox"/>	<input type="checkbox"/>	
25. Sec. 90.2 (d) (8) Each habitable room must have window or skylight to the outside.	<input type="checkbox"/>	<input type="checkbox"/>	
26. Sec. 90.2 d) (9) No areas used for housing were previously used for mixing, loading, or storing toxic substances.	<input type="checkbox"/>	<input type="checkbox"/>	
Cooking and Eating	<input type="checkbox"/>	<input type="checkbox"/>	
27. Sec. 90.2 (e) (1) Arrangements are adequate - Family	<input type="checkbox"/>	<input type="checkbox"/>	
28. Sec. 90.2 (e) (2) Arrangements are adequate – Dormitory	<input type="checkbox"/>	<input type="checkbox"/>	
29. Sec. 90.2 (e) (3) Central mess/Multi-family operations meet standards.	<input type="checkbox"/>	<input type="checkbox"/>	
Sleeping Arrangements	<input type="checkbox"/>	<input type="checkbox"/>	
30. Sec. 90.2 (f) (1) Sleeping arrangements in good repair and sanitary condition.	<input type="checkbox"/>	<input type="checkbox"/>	
31. Sec. 90.2 (f) (2) Mattresses and covers sanitized when user changes	<input type="checkbox"/>	<input type="checkbox"/>	
32. Sec. 90.2 (f) (3) Sleeping arrangements adequately spaced	<input type="checkbox"/>	<input type="checkbox"/>	
Heating	<input type="checkbox"/>	<input type="checkbox"/>	
33. Sec. 90.2 (g) (1) Installed, operable, maintains at least 68 degrees	<input type="checkbox"/>	<input type="checkbox"/>	
34. Sec. 90.2 (g) (2) Failsafe if power or fuel is interrupted.	<input type="checkbox"/>	<input type="checkbox"/>	
35. Sec. 90.2 (g) (3) Walls/ceilings provided with fire proof materials, 18" around stove/pipes	<input type="checkbox"/>	<input type="checkbox"/>	
36. Sec. 90.2 (g) (4) Stoves and heat sources using combustible fuel installed to prevent fire Vented through ceiling, wall, or roof.	<input type="checkbox"/>	<input type="checkbox"/>	
37. Sec. 90.2 (g) (5) Stoves and heat sources using combustible fuel must be vented. Must extend beyond peak of roof.	<input type="checkbox"/>	<input type="checkbox"/>	
38. Sec. 90.2 (g) (6) Solid or liquid fuel stoves in a room with wooden or combustible flooring must be fireproofed 18" beyond the stove.	<input type="checkbox"/>	<input type="checkbox"/>	
39. Sec. 90.2 (g) (7) No portable heaters other than electric.	<input type="checkbox"/>	<input type="checkbox"/>	
Bathrooms and Laundry Rooms	<input type="checkbox"/>	<input type="checkbox"/>	
40. Sec. 90.2 (h) (1) Bathrooms separate to assure privacy.	<input type="checkbox"/>	<input type="checkbox"/>	
41. Sec. 90.2 (h) (2) Tubs, showers, and sinks within 200' of each living arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	
42. Sec. 90.2 (h) (3) Bathrooms and laundry rooms conducive to good repair and maintained in a sanitary condition.	<input type="checkbox"/>	<input type="checkbox"/>	
43. Sec. 90.2 (h) (4) Shower floors non-absorbent, non-skid, properly draining	<input type="checkbox"/>	<input type="checkbox"/>	
44. Sec. 90.2 3 (h) (5) Communal bathrooms Separate bathing/washing and dressing spaces. Designated as men/women.	<input type="checkbox"/>	<input type="checkbox"/>	
45. Sec. 90.2 (h) (6) Communal bathrooms showerhead 3' apart per 10 persons and one lavatory sink per 6 people, 9 sf per shower.	<input type="checkbox"/>	<input type="checkbox"/>	
46. Sec. 90.2 (h) (7) Separate shower stalls in communal bathrooms	<input type="checkbox"/>	<input type="checkbox"/>	
47. Sec. 90.2 (h) (8) One mechanical clothes washer per 50 occupants, one laundry tray per 100 persons, or one laundry tray or tub per 25 persons	<input type="checkbox"/>	<input type="checkbox"/>	
48. Sec. 90.2 (h) (9) Clothes drying arrangements	<input type="checkbox"/>	<input type="checkbox"/>	
Toilets	<input type="checkbox"/>	<input type="checkbox"/>	
49. Sec. 90.2 (i) (1) Within 200 feet of each living arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	
50. Sec. 90.2 (i) (2) Conducive to good repair; maintained in sanitary condition; "fly proof" and adequate capacity	<input type="checkbox"/>	<input type="checkbox"/>	

51. Sec. 90.2 (i) (3) Communal toilets separated by sex by solid floor to ceiling wall; labeled by sex in English or universal symbol	<input type="checkbox"/>	<input type="checkbox"/>	
52. Sec. 90.2 (i) (4) Communal toilets lighted naturally or by safe artificial light. Well ventilated, screened with mesh.	<input type="checkbox"/>	<input type="checkbox"/>	
53. Sec. 90.2 (i) (5) Water closed or privy seats 1:1 of each sex. At least one per sex.	<input type="checkbox"/>	<input type="checkbox"/>	
54. Sec. 90.2 (i) (6) Urinals in lieu of toilets for up to 1/3 of men's seats.	<input type="checkbox"/>	<input type="checkbox"/>	
55. Sec. 90.2 (i) (7) Urinals and surrounding walls of nonabsorbent material.	<input type="checkbox"/>	<input type="checkbox"/>	
Garbage/Refuse	<input type="checkbox"/>	<input type="checkbox"/>	
56. Sec. 90.2 (j) (1) Containers conveniently located/ adequate number	<input type="checkbox"/>	<input type="checkbox"/>	
57. Sec. 90.2 (j) (2) Containers must be in good repair and sanitary.	<input type="checkbox"/>	<input type="checkbox"/>	
58. Sec. 90.2 (j) (3) Must be collected at twice per week.	<input type="checkbox"/>	<input type="checkbox"/>	
Electricity/Lighting	<input type="checkbox"/>	<input type="checkbox"/>	
59. Sec. 90.2 (k) (1) All facilities shall be provided electricity.	<input type="checkbox"/>	<input type="checkbox"/>	
60. Sec. 90.2 (k) (2) Each habitable room must have a ceiling or wall light and an outlet.	<input type="checkbox"/>	<input type="checkbox"/>	
61. Sec. 90.2 (k) (3) Yard areas and pathways to communal arrangements to be illuminated	<input type="checkbox"/>	<input type="checkbox"/>	
62. Sec. 90.2 (k) (4) Wiring and fixtures to be to National Electric Code and state and local codes.	<input type="checkbox"/>	<input type="checkbox"/>	
63. Sec. 90.2 (k) (5) Toilets and storage rooms – 20 foot light candles 30 inches from floor, other rooms 30 foot candles 30 inches from floor.	<input type="checkbox"/>	<input type="checkbox"/>	
Screening	<input type="checkbox"/>	<input type="checkbox"/>	
64. Sec. 90.2 (l) (1) Outside openings 16 mesh or less	<input type="checkbox"/>	<input type="checkbox"/>	
65. Sec. 90.2 (l) (2) Screen doors tight and self-closing	<input type="checkbox"/>	<input type="checkbox"/>	
66. Sec. 90.2 (l) (3) Screens maintained in good repair	<input type="checkbox"/>	<input type="checkbox"/>	
Insect and Rodent Control	<input type="checkbox"/>	<input type="checkbox"/>	
67. Sec. 90.2 (m) (1) Housing sites, units, and utility areas constructed to exclude insects, rodents or other vermin.	<input type="checkbox"/>	<input type="checkbox"/>	
68. Sec. 90.2 (m) (2) Vector control program maintained to insure effective control of insects, rodents and other vermin.	<input type="checkbox"/>	<input type="checkbox"/>	
69. Sec. 90.2 (m) (3) All vector control programs provide max. protection.	<input type="checkbox"/>	<input type="checkbox"/>	
Fire, First Aid, and Safety	<input type="checkbox"/>	<input type="checkbox"/>	
70. Sec. 90.2 (n) (1) All buildings shall be maintained and used in accordance with the provisions of state and local regulations.	<input type="checkbox"/>	<input type="checkbox"/>	
71. Sec. 90.2 (n) (2) Building provides adequate fire exits.	<input type="checkbox"/>	<input type="checkbox"/>	
72. Sec. 90.2 (n) (3) Communal facilities provide adequate fire exits.	<input type="checkbox"/>	<input type="checkbox"/>	
73. Sec. 90.2 (n) (4) Sleeping quarters and assembly rooms on second story shall have a stairway plus permanent affixed ladder or stairway.	<input type="checkbox"/>	<input type="checkbox"/>	
74. Sec. 90.2 (n) (5) Fire extinguishing equipment within 100 feet of each facility.	<input type="checkbox"/>	<input type="checkbox"/>	
75. Sec. 90.2 (n) (6) 1 st aid kits provided and accessible at all times. 1 per 16 unit 1 per 50 persons	<input type="checkbox"/>	<input type="checkbox"/>	
76. Sec. 90.2 (n) (7) No flammable or volatile liquids or materials stored in or adjacent to rooms used for living.	<input type="checkbox"/>	<input type="checkbox"/>	
77. Sec. 90.2 (n) (8) No ag pesticides or toxic chemicals stored within facility site. 500 feet in secured location.	<input type="checkbox"/>	<input type="checkbox"/>	
78. Sec. 9.03 (g) Inspection shall cover all units that are subject to being occupied	<input type="checkbox"/>	<input type="checkbox"/>	

Migrant Labor Housing Facilities in Texas

Appendices

Other inspector comments:

Inspected by:			Owner/Manager:	
Printed Name:			Printed Name:	
Date:			Date:	

APPENDIX E. LIST OF LICENSED MIGRANT FARMWORKER HOUSING FACILITIES

Source: TDHCA MHD, August 8, 2006

Facility Name	County	# of Bldgs.	# of Units	Capacity
Welch Gin Inc.	Dawson	4	8	60
Mereta Cooperative Gin Co.	Tom Green	1	1	12
City Gin Inc.	Lubbock	1	4	18
Idalou Cooperative Gin Company	Lubbock	1	14	96
Busters Gin Ltd	Hockley	4	8	26
Adcock Gin Co	Dawson	1	1	8
New Home COOP Gin (Lakeview Plant)	Lynn	2	9	20
Springlake-Earth Cotton Growers	Lamb	9	9	35
Radium Gin Co	Jones	1	1	6
Mulshoe Housing Authority	Bailey	19	72	360
Plainview Housing Authority	Hale	33	156	550
Petersburg COOP Gin	Hale	13	13	52
Flower Grove COOP Gin	Martin	2	7	28
Wells Farmers Cooperative Gin	Lynn	15	15	25
Harvest Apts.	Terry	2	30	550
Ericksdahl COOP Gin	Jones	1	1	8
Enochs COOP Gin	Bailey	1	10	40
Anthony Palmer Inc./Palmer Produce	Atascosa	3	3	15
Pecos Farm Labor Housing	Reeves	15	56	168
Davis Mountains Migrant Housing Inc.	Jeff Davis	4	2	120
Tricounty	Gaines	1	12	28
Plains East Apartments	Hockley	4	14	56
Windmill Village Apts.	Lamb	8	18	88
Morton Meadows	Cochran	5	20	88
Midkiff Farmers COOP	Midkiff	1	8	20
Paducah Housing Authority	Cottle	4	16	64
Tiffanywood Apartments	Moore	5	5	70
Kenney Welch, B&K Rentals LLC	Dallam	8	8	72
Farmers COOP Assn. of Odonnell	Lynn	3	20	80
Colonia Remigio Valdez, Jr.	Bexar	39	75	421
Glasscock County COOP #1	Glasscock	3	11	41
Glasscock County COOP #2	Glasscock	1	6	20
Total		214	633	3,245

APPENDIX F. EXPLANATION OF ABBREVIATIONS

HHSC	Texas Health and Human Services Commission
TDHCA	Texas Department of Housing and Community Affairs
NAWS	National Agricultural Workers Survey
MSFEPS	Migrant and Seasonal Farmworker Enumeration Profile Study
DOL	US Department of Labor
HAC	Housing Assistance Council
MHD	Manufactured Housing Division