



March 16, 1993

MEMORANDUM FOR: JAMES V. WITMER
District Director/Raleigh

FROM: *AW* ALFRED H. PERRY
Acting Regional Administrator

SUBJECT: Memorandum of Agreement (MOA)
North Carolina DOL and Wage & Hour Division

I am pleased to have signed, and am enclosing, the MOA you and the North Carolina Department of Labor have been able to work out.

This MOA specifically deals with the method and manner of conducting housing inspections within the state and provides for:

- o an orderly manner of carrying out activities required of both agencies,
- o a process through which information on our respective housing inspection paper work/results can best be shared,
- o cross training of staffs -- a must for this type agreement to function effectively,
- o referrals to the appropriate agency regarding potential violations of laws administered only by that agency, and
- o meetings on a regular basis to examine the working of the agreement, so that in-course changes might be made.

Please express my appreciation to the Commissioner of Labor's staff, particularly Deputy Director Maddox and Regina Luginbuhl, for their interest and efforts in bringing this MOA to fruition.

Enclosures

cc: Charles Pugh
Acting Wage and Hour Administrator

Gerald Parks
District Director/Charlotte

Lynn Pierce
Region 4 Director for Enforcement

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U. S. DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION
4407 BLAND ROAD, SUITE 260
RALEIGH, NORTH CAROLINA 27609



March 19, 1993

Ms. Regina Luginbuhl
Director
State of North Carolina
Department of Labor
Migrant Housing Division
4 West Edenton Street
Raleigh, North Carolina 27601-1092

Dear Regina,

I am pleased to forward the signed copy of the Memorandum of Agreement that we were able to draft. ARA Perry's cover memo is also forwarded. I am confident that this MOA gives us the foundation for an even more productive working ambience.

I add my sincere appreciation to that expressed by Mr. Perry to Commissioner Payne, you, and Deputy Director Maddox.

Sincerely,

James V. Witmer
District Director

Enclosures

MEMORANDUM OF AGREEMENT BETWEEN THE WAGE-HOUR
DIVISION, EMPLOYMENT STANDARDS ADMINISTRATION
U.S. DEPARTMENT OF LABOR AND THE NORTH CAROLINA
DEPARTMENT OF LABOR FOR THE EXCHANGE OF MIGRANT
HOUSING INFORMATION.

The North Carolina Department of Labor is responsible for the enforcement of the Migrant Housing Act of North Carolina, and the Wage-Hour Division, Employment Standards Administration, U.S. Department of Labor is responsible for the enforcement of the Migrant and Seasonal Agricultural Worker Protection Act.

The Migrant Housing Act of North Carolina provides that migrant housing may be occupied only if it is certified by the North Carolina Department of Labor or the United States Department of Labor (N.C.G.S. 95-226(d)). The federal Migrant and Seasonal Agricultural Worker Protection Act also provides that no such housing may be occupied unless a state; local; or other appropriate agency has certified that the housing meets applicable standards (29 USC 1823 (b)(1)).

In order to more efficiently enforce these two laws, the two agencies agree to enforce the same standards, to share information pertinent to migrant housing locations and conditions in North Carolina, to recognize each other's preoccupancy certifications, and to cross-train each other's staff.

Standards for housing under the Migrant Housing Act are explicitly set forth in N.C.G.S. 95-225. They comprise the federal OSHA standards, water quality and sewage disposal standards adopted by the Commission for Health Services, and specific standards on heating, fire protection, and kitchen facilities. In addition, under the State Occupational Safety and Health Act, N.C.G.S. 95-131, the Commissioner of Labor is authorized to adopt additional safety and health standards as necessary. These standards constitute the substantive federal and state safety and health standards applicable to such housing, and as such will be the set of standards enforced by both the North Carolina Department of Labor and the federal Wage-Hour Division.

To assure the even application of this set of standards, the two agencies will conduct joint training programs as needed for enforcement staff. Interpretations of standards as well as the application of standards in various situations will be included in the training.

Each agency conducts inspections of migrant housing prior to the housing being occupied and issues a certificate when the housing meets standards. In order to avoid duplication and to share information on housing inspections, each agency will forward to the other either a copy of all certificates issued each month, or a monthly listing of certificates issued containing all the information found on the certificates.

Once either agency has certified a migrant housing facility on a preoccupancy basis, the other agency will honor the certificate and not require another preoccupancy inspection.

Both agencies also conduct inspections of occupied migrant housing. To more effectively plan inspection activities and reduce enforcement expenses, the agencies agree to share information on inspections conducted in occupied migrant housing. Each agency will, on a monthly basis, forward to the other a copy of a list of violations in each facility.

The agencies further agree to provide to each other, upon request, past findings of migrant housing inspections with respect to specific housing sites.

To assure the orderly exchange of information, representatives from the two agencies will meet at least quarterly to discuss issues of mutual concern.

The North Carolina Department of Labor further agrees to ask during housing inspections for the identification of crew leaders, and when obtained, to provide this information to the federal Wage-Hour Division along with the housing inspection results.

The federal Wage-Hour Division further agrees to ask, during inspections pursuant to the Migrant and Seasonal Agricultural Worker Protection Act, whether workers are being provided drinking water, handwashing and toilet facilities in the fields as required by standards adopted pursuant to N.C. law. Where workers indicate that such facilities are not being provided, the federal Wage-Hour Division will provide this information to the N.C. Department of Labor when apparent violations are noted.

Nothing in this agreement is intended to restrict in any way either agency from conducting inspections of occupied migrant housing and proceeding with enforcement activities appropriate to that agency.

This agreement may be cancelled via written communication when specific changes are deemed to be in the best interests of either party.

It is our belief that federal-State cooperation in this area will enable both agencies to be receptive to the needs and desires of the general public while continuing to fulfill our respective statutory duties and responsibilities in an efficient manner.

For the North Carolina
Department of Labor

Rodney Maddox
Rodney Maddox
Deputy Commissioner
of Standards & Inspections

Date: March 1, 1993

For the Wage-Hour Division,
Employment Standards Administration
U.S. Department of Labor

Alfred H. Perry
Alfred H. Perry
Acting Regional Administrator

Date: March 16, 1993