

PERMITTING AN AGRICULTURAL LABOR CAMP IN INDIANA

Below is the Indiana Code (law) that gives information about permitting agricultural labor camps in Indiana. Work well in advance to develop plans, obtain financing and construct housing to meet all requirements. Contact Mike Hoover with the Indiana State Department of Health at 317-233-7183 or Mhoover@isdh.IN.gov at least six months in advance of any significant camp renovation or new construction. The key to success is advance planning. Visit http://www.in.gov/isdh/regsvcs/saneng/environmental_health/environmental_health.htm#alc for more information.

Agricultural labor camp - 16-41-26-1

Sec. 1. As used in this chapter, "agricultural labor camp" includes at least one (1) building or structure, tent, trailer, or vehicle, including the land, established, operated, or used as living quarters for at least five (5) adult seasonal or temporary workers engaged in agricultural activities, including related food processing.

Application of chapter - 16-41-26-2

Sec. 2. A person operating or maintaining an agricultural labor camp shall comply with this chapter and rules adopted under this chapter.

Permits - 16-41-26-3

Sec. 3. (a) Except as provided in subsection (b), a person may not directly or indirectly operate an agricultural labor camp until the person has obtained from the state department a permit to operate the camp and unless the permit is in full force and effect and is posted and kept posted in the camp to which the permit applies at all times during maintenance and operation of the camp.

(b) A person may operate at least one (1) living unit of an agricultural labor camp under a permit issued under section 4 of this chapter.

Limited permits - 16-41-26-4

Sec. 4. (a) In addition to a permit issued under section 6 of this chapter, the state department may issue a permit that is limited to at least one (1) specific living unit of an agricultural labor camp. The state may issue more than one (1) permit under this section to a person operating an agricultural labor camp.

(b) Rules adopted under this chapter apply to permits issued under this section.

Limited permits - 16-41-26-5

Sec. 5. The state department may issue a permit under section 4 of this chapter only if:

1. all mobile homes used as shelters and equipped with an operable toilet, shower, lavatory, and hot and cold water under pressure, provide a minimum floor space of sixty (60) square feet for each resident; and

2. all other shelters provide a minimum floor space of eighty (80) square feet for each resident.

Applications for permits; issuance, duration, and transferability of permits; inspections; hearings - 16-41-26-6

Sec. 6. (a) An application to operate an agricultural labor camp must be made to the state department in writing on a form and under rules prescribed by the state department.

(b) The state department shall issue a permit for the operation of an agricultural labor camp if the state department is satisfied, after investigation or inspection, that the camp meets the minimum standards of construction, sanitation, equipment, and operation required by rules adopted under section 8 of this chapter.

(c) A permit is valid from the date of issuance through May 1 of the following year unless the permit is revoked.

(d) A labor camp must be inspected and a permit issued before the labor camp is occupied.

(e) The annual inspection must occur during the sixty (60) days before the first occupation by agricultural laborers each year.

(f) A permit is not transferable.

(g) If an applicant is refused a permit, the state department shall, upon request, afford the applicant a fair hearing in accordance with IC 4-21.5-3.

Revocation of permits - 16-41-26-7

Sec. 7. The state department may, after reasonable notice and opportunity for a fair hearing in accordance with IC 4-21.5-3, revoke a permit authorizing the operation of an agricultural labor camp if the state department finds that the holder of the permit has failed to comply with a provision of this chapter or a rule or an order issued under this chapter.

Rules- 16-41-26-8

Sec. 8. (a) Except as provided in subsection (b), the state department shall adopt rules under IC 4-22-2 necessary to protect the health, safety, and welfare of persons living in agricultural labor camps, prescribing standards for living quarters at agricultural labor camps, including provisions relating to construction of camps, sanitary conditions, light, air, safety protection from fire hazards, equipment, maintenance, and operation of the camp, sewage disposal through septic tank absorption fields, and other matters appropriate for the security of the life and health of occupants.

(b) The water pollution control board shall adopt rules under IC 4-22-2 pertaining to water supplies and sewage disposal systems other than septic tank absorption fields required for agricultural labor camps.

(c) In the preparation of rules, the state department:

1. shall consult with and request technical assistance from other appropriate state agencies; and
2. may appoint and consult with committees of technically qualified persons and of representatives of employers and employees.

(d) If a conflict exists between rules adopted under this chapter and rules adopted by the fire prevention and building safety commission, the rules authorized in this section apply.

(e) A copy of every rule adopted under this chapter shall be sent to each health officer in Indiana and to the heads of other state agencies with specific or related responsibility affecting agricultural labor camps and to any person requesting the rules. The rules affecting agricultural labor camps adopted under this chapter shall be published periodically in the manner the state department determines.

Enforcement; inspections and investigations - 16-41-26-9

Sec. 9. (a) The state department may initiate an action under IC 4-21.5-3-6 or IC 4-21.5-3-8 to enforce this chapter and rules adopted under this chapter.

(b) The state department and the state department's authorized representatives may enter and inspect agricultural labor camps at reasonable hours and may question the persons and investigate the facts, conditions, and practices or matters that the state department considers necessary or appropriate to determine whether a person has violated a provision of this chapter or to aid in the enforcement of this chapter or in the adoption of rules under this chapter. The state department may, to the extent appropriate, utilize the services of any other state department or agency of the government for assistance in the inspections and investigations.

Judicial review - 16-41-26-10

Sec. 10. (a) A person aggrieved by an order of the state department denying or revoking a permit to operate an agricultural labor camp may, in accordance with IC 4-21-5-5, petition the circuit or superior court for a review of the order asking that the order be modified or set aside.

(b) A person aggrieved by a rule adopted under section 8 of this chapter by the state department may, not more than thirty (30) days after the rule becomes effective, petition the circuit or superior court to modify or set aside the rule in whole or in part, but only on the ground that the rule is unlawful or unreasonable.

(c) A copy of a petition filed under subsection (a) or (b) shall be served on the state health commissioner. The state department shall keep and, on notice of filing of the petition, shall certify and file in the court a full record in the proceeding on which the action complained of is based.

(d) The review authorized in subsection (a) or (b) is limited to questions of law. Findings of fact by the state department, if supported by substantial evidence, are conclusive.

(e) The jurisdiction of the court is exclusive and the court's judgment is final, except that the judgment is subject to review by the supreme court.

Notice of enforcement actions - 16-41-26-11

Sec. 11. To adequately place and care for workers and the workers' families housed in an agricultural labor camp, the state department shall serve notice of an action initiated under section 13 of this chapter to the following:

1. The county agricultural extension educator.
2. The representative of the nearest office of the public employment service whose duty it is to aid in placing such workers in suitable employment.
3. The county department of public welfare.

Inspections and investigations by designated agents - 16-41-26-12

Sec. 12. The state department may designate an agent who may, on presentation of proper credentials, enter on private or public property to inspect for and investigate possible violations of this chapter or a rule adopted under this chapter.

Civil penalties and compliance orders - 16-41-26-13

Sec. 13. (a) The state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied in an action to enforce the provisions of the following:

1. This chapter.
2. The rules of the state department.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed five hundred dollars (\$500) per violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

1. fails to comply with this chapter or a rule adopted under this chapter; or
2. interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.54. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

Destruction or damage of property; penalty - 16-41-26-14

Sec. 14 The owner or operator of an agricultural labor camp may under 29 U.S.C. 1821(c) impose a penalty on an agricultural laborer who knowingly or intentionally destroys or damages property on the premises of an agricultural labor camp.