



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Fact Sheet #50: Transportation under the Migrant and Seasonal Agricultural Worker Protection Act

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA), administered by the Wage and Hour Division of the U.S. Department of Labor (DOL), protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, disclosures and recordkeeping. MSPA also requires farm labor contractors to register with the DOL. This Fact Sheet provides information concerning the transportation requirements of MSPA. Additional information about the other MSPA requirements can be found in the Wage and Hour Division Fact Sheet # 49.

MSPA Transportation Safety Standards

Under MSPA, any non-exempt person who uses, or causes to be used, a vehicle to transport migrant or seasonal agricultural workers must comply with the applicable vehicle safety standards. The standards used under MSPA are either the DOL standards or the U.S. Department of Transportation (DOT) standards adopted by DOL and incorporated into the MSPA regulations.

The following chart is provided as guidance regarding which vehicle safety standards (DOL or DOT) apply to vehicles used to transport migrant or seasonal agricultural workers under MSPA. The chart, however, is not intended as a substitute for the regulatory language. If you have any questions as to which standards apply, consult the regulations or contact the nearest office of the Wage and Hour Division.

Type of Vehicle	Total Trip Mileage	
	75 miles or less	More than 75 miles
Car:		
Passenger automobile	DOL	DOL
Station Wagon	DOL	DOL
OTHER	DOL	DOT
Pick-up Truck:		
Workers riding in cab	DOL	DOL
Workers riding in truck bed	DOL	DOT
Day-Haul Operations:		
Passenger automobile	DOL	DOL
Station Wagon	DOL	DOL
OTHER	DOT	DOT

MSPA Drivers' License Requirements

Under MSPA, any non-exempt person who uses or causes to be used a vehicle to transport any migrant or seasonal agricultural worker is required to ensure that each driver has a currently valid motor vehicle operator's permit or license to operate the vehicle (as provided by applicable State law). If, for example, State law requires the driver to have a commercial drivers' license (CDL) to operate a given vehicle, then the driver must have a valid CDL before driving the vehicle. In addition, each FLC and Farm Labor Contactor Employee (FLCE) who drives must have and carry a Doctor's Certificate (WH-515).

MSPA Insurance Requirements

Any person subject to the Act who uses, or causes to be used, a vehicle to transport covered workers must ensure that the vehicle is properly insured against liability for damage to persons or property. The specific insurance requirements are found in the MSPA regulations. Generally, the owner or lessor of the vehicle will be responsible for providing the required insurance. Basically, there are three ways in which the insurance requirement may be met:

Option A

Obtain vehicle liability insurance coverage in the amount of not less than \$100,000 for each seat in the vehicle (up to a maximum of \$5,000,000 for any one vehicle). The policy must be maintained in full force and effect at all times for transportation subject to the Act's requirements.

Option B

Obtain State Workers' Compensation insurance coverage. The policy must be maintained in full force and effect at all times when transportation subject to the Act's requirements occurs. If the vehicle is used for transportation not covered by the State Workers' Compensation insurance policy, the person responsible for the transportation must also have vehicle liability insurance coverage (see Option A above) to protect the workers against injury or property loss. For those who choose this option, the person responsible for the transportation must also obtain a minimum of \$50,000 in property damage insurance coverage for loss or damage in any one accident to the property of others (excluding cargo) or evidence of a general liability insurance policy that provides the same protection.

Option C

Obtain a liability bond from a U.S. Department of Treasury approved "surety," assuring payment for any liability up to \$500,000 for damages to persons or property arising out of transportation of workers in connection with the business, activities or operations of the person doing the transporting. Any liability bond obtained pursuant to the requirements of the Act must be maintained in full force and effect for the entire period during which workers may be transported.

Are "Raiteros" Subject to MSPA?

Generally, the term "raitero" refers to a person (usually a fieldworker) who, for a fee, provides transportation for farm workers both to and from the work site. Generally, workers are charged a daily roundtrip fee with the specific amount usually contingent upon the distance traveled. If

the amount charged each worker transported exceeds the actual cost of providing the transportation, the raitero will most likely meet the MSPA definition of a FLC (i.e., transporting MSPA covered workers for a fee). In such a case, the raitero should be registered with DOL as a FLC, and is responsible for complying with the registration, transportation safety, drivers' licensing, and insurance requirements of the Act.

FLC Employees Who Operate Vehicles to Transport Workers

Employees of FLCs who recruit, solicit, hire, employ, furnish, or transport migrant or seasonal agricultural workers on behalf of their employer (the FLC), must be registered with the U.S. Department of Labor as an Farm Labor Contractor Employee (FLCE) prior to engaging in any of those named activities. To lawfully drive a vehicle used to transport workers, the FLCE must obtain specific authorization to do so from the USDOL. In order to obtain the authorization, the FLC must submit documentation showing that the vehicle is safe and properly insured, and documentation must be submitted by the FLCE to establish that he or she holds a valid drivers' license to operate the vehicle in question.

Exclusions from MSPA Transportation Requirements

The following types of transportation are not subject to the requirements of MSPA:

- Transportation on tractors, combines, harvesters, pickers, or other similar machinery and equipment if the worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or in the care of livestock or poultry; and
- Bona fide carpooling arrangements in which the FLC does not participate, including when: the workers make all of the arrangements themselves; the workers use one of the workers' own vehicles; and the workers are not specifically directed or requested by the employer to participate.
- Transportation if the only other occupants of the person's vehicle are members of his or her immediate family.

Penalties and Sanctions

Violators may be subject to payment of back wages; assessment of civil money penalties; and/or revocation of FLC registration. Violators may also be subject to enforcement through civil action in federal court and criminal prosecution in federal court.

Additional Information

To register as a farm labor contractor, contact either the nearest office of State Employment Services, listed in most telephone directories under State government, or the nearest office of the Wage and Hour Division, listed under U.S. Government, Labor Department.

For more complete information regarding MSPA and related topics such as joint employment or the Fair Labor Standards Act (FLSA) minimum wage, overtime, and child labor provisions, visit

our Wage-Hour web site: www.wagehour.dol.gov and/or call our Wage-Hour toll-free help line, available 8 a.m. to 5 p.m. in your time zone, at 1-866-4US-WAGE (1-866-487-9243). The MSPA statute appears at 29 U.S.C. §1801 *et seq.*. The federal regulations implementing MSPA appear in 29 CFR Part 500.

The Department of Labor provides this information to enhance public access to information on its programs. This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.