

Wage and Hour Division, Labor

§ 500.1

RECORD

500.270 Retention of official record.
500.271 Certification of official record.

AUTHORITY: Pub. L. 97-470, 96 Stat. 2583 (29 U.S.C. 1801-1872); Secretary's Order No. 4-2001, 66 FR 29656.

SOURCE: 48 FR 36741, Aug. 12, 1983, unless otherwise noted.

Subpart A—General Provisions

§ 500.0 Introduction.

(a) The Migrant and Seasonal Agricultural Worker Protection Act (MSPA), hereinafter referred to as MSPA or the Act, repeals and replaces the Farm Labor Contractor Registration Act of 1963, as amended, hereinafter referred to as FLCRA or the Farm Labor Contractor Registration Act. Prior judgments and final orders obtained under FLCRA continue in effect as stated in § 500.4.

(b) These regulations include provisions necessitated by the Immigration Reform and Control Act's (IRCA) amendment to the Immigration and Nationality Act (INA). IRCA amended MSPA to remove section 106 thereof prohibiting the employment of illegal aliens. Matters concerning certificate actions or the assessment of civil money penalties, for a violation of section 106 of MSPA which occurred prior to June 1, 1987, continue through final administrative determination as stated in § 500.147.

[48 FR 36741, Aug. 12, 1983, as amended at 54 FR 13328, Mar. 31, 1989]

§ 500.1 Purpose and scope.

(a) Congress stated, in enacting the Migrant and Seasonal Agricultural Worker Protection Act that "[I]t is the purpose of this Act to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers." It authorized the Secretary to issue such rules and regulations as are necessary to carry out the Act consistent with the requirements of chapter 5 of title 5, United States Code.

(b) These regulations implement this purpose and policy. The regulations contained in this part are issued in accordance with section 511 of the Act and establish the rules and regulations necessary to carry out the Act.

(c) Any farm labor contractor, as defined in the Act, is required to obtain a Certificate of Registration issued pursuant to the Act from the Department of Labor or from a State agency authorized to issue such certificates on behalf of the Department of Labor. Such a farm labor contractor must ensure that any individual whom he employs to perform any farm labor contracting activities also obtains a Certificate of Registration. The farm labor contractor is responsible, as well, for any violation of the Act or these regulations by any such employee whether or not the employee obtains a certificate. In addition to registering, farm labor contractors must comply with all other applicable provisions of the Act when they recruit, solicit, hire, employ, furnish or transport or, in the case of migrant agricultural workers, provide housing.

(d) Agricultural employers and agricultural associations which are subject to the Act must comply with all of the worker protections which are applicable under the Act to migrant or seasonal agricultural workers whom they recruit, solicit, hire, employ, furnish, or transport or, in the case of migrant agricultural workers, provide housing. The obligations will vary, depending on the types of activities affecting migrant or seasonal agricultural workers. Agricultural employers and agricultural associations and their employees need not obtain Certificates of Registration in order to engage in these activities, even if the workers they obtain are utilized by other persons or on the premises of another.

(e) The Act empowers the Secretary of Labor to enforce the Act, conduct investigations, issue subpoenas and, in the case of designated violations of the Act, impose sanctions. As provided in the Act, the Secretary is empowered, among other things, to impose an assessment and to collect a civil money penalty of not more than \$1,000 for each violation, to seek a temporary or permanent restraining order in a U.S.

District Court, and to seek the imposition of criminal penalties on persons who willfully and knowingly violate the Act or any regulation under the Act. In accordance with the Act and with these regulations, the Secretary may refuse to issue or to renew, or may suspend or revoke a certificate of registration issued to a farm labor contractor or to a person who engages in farm labor contracting as an employee of a farm labor contractor.

(f) The facilities and services of the U.S. Employment Service, including State agencies, authorized by the Wagner-Peyser Act may be denied to any person found by a final determination by an appropriate enforcement agency to have violated any employment-related laws including MSPA when notification of this final determination has been provided to the Job Service by that enforcement agency. See 20 CFR 658.501(a)(4). The facilities and services of the U.S. Employment Service shall be restored immediately upon compliance with 20 CFR 658.502(a)(4).

(g) Subparts A through E set forth the substantive regulations relating to farm labor contractors, agricultural employers and agricultural associations. These subparts cover the applicability of the Act, registration requirements applicable to farm labor contractors, the obligations of persons who hold Certificates of Registration, the worker protections which must be complied with by all who are subject to the Act, and the enforcement authority of the Secretary.

(h) Subpart F sets forth the rules of practice for administrative hearings relating to actions involving Certificates of Registration. It also outlines the procedure to be followed for filing a challenge to a proposed administrative action relating to violations and summarizes the methods provided for collection and recovery of a civil money penalty.

(i)(1) The Act requires that farm labor contractors obtain a certificate of registration from the Department of Labor prior to engaging in farm labor contracting activities. The Act also requires registration by individuals who will perform farm labor contracting activities for a farm labor contractor. Form WH-510 and WH-512 are the appli-

cations used to obtain Farm Labor Contractor and Farm Labor Contractor Employee Certificates of Registration. These forms have been approved by the Office of Management and Budget (OMB) under control numbers 1215-0038 (WH-510) and 1215-0037 (WH-512). Forms WH-514 and WH-514a are used when applying for transportation authorization to furnish proof of compliance with vehicle safety requirements. These forms have been jointly cleared by OMB under control number 1215-0036.

(2) The Act further requires disclosure to migrant and seasonal agricultural workers regarding wages, hours and other working conditions and housing when provided to migrant workers. The Department of Labor has developed optional forms for use in making the required disclosure. OMB has approved the following: Worker Information (WH-516) 1215-0145 and Housing Terms and Conditions (WH-521) 1215-0146.

(3) The Act also requires that farm labor contractors, agricultural employers and agricultural associations make, keep, preserve and disclose certain payroll records. Forms WH-501 and WH-501a (Spanish version) are provided to assist in carrying out this requirement. In addition, farm labor contractors who are applying for housing authorization must submit information which identifies the housing to be used along with proof of compliance with housing safety and health requirements. There has been no form developed for this purpose. The Act further requires disclosure by the insurance industry of certain information pertaining to cancellation of vehicle liability insurance policies. The requirements concerning recordkeeping, housing and insurance have been cleared by OMB under control number 1215-0148.

(4) The Act provides that no farm labor contractor shall knowingly employ or utilize the services of aliens not lawfully admitted for permanent residence or who have not been authorized by the Attorney General to accept employment. Form WH-509 is an optional form which may be used to self-certify that the applicant is a citizen of the U.S. This form has been cleared by

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OMB under control number 1215-0091. (See § 500.59(a)(11)).

[48 FR 36741, Aug. 12, 1983; 48 FR 38380, Aug. 23, 1983]

§ 500.2 Compliance with State laws and regulations.

The Act and these regulations are intended to supplement State law; compliance with the Act or these regulations shall not excuse any individual from compliance with appropriate State law or regulation.

§ 500.3 Effective date of the Act; transition period; repeal of the Farm Labor Contractor Registration Act.

(a) The provisions of the Migrant and Seasonal Agricultural Worker Protection Act are effective on April 14, 1983, and are codified in 29 U.S.C. 1801 *et seq.*

(b) The Migrant and Seasonal Agricultural Worker Protection Act repeals the Farm Labor Contractor Registration Act of 1963, as amended, (7 U.S.C. 2041, *et seq.*), effective April 14, 1983.

(c) Violations of the Farm Labor Contractor Registration Act occurring prior to April 14, 1983, may be pursued by the Department of Labor after that date.

§ 500.4 Effect of prior judgments and final orders obtained under the Farm Labor Contractor Registration Act.

The Secretary may refuse to issue or to renew, or may suspend or revoke, a Certificate of Registration under the Act, if the applicant or holder has failed to pay any court judgment obtained by the Secretary or any other person under the Farm Labor Contractor Registration Act, or has failed to comply with any final order issued by the Secretary under the Farm Labor Contractor Registration Act. The Secretary may deny a Certificate of Registration under the Act to any farm labor contractor who has a judgment outstanding against him, or is subject to a final order assessing a civil money penalty which has not been paid.

§ 500.5 Filing of applications, notices and documents.

Unless otherwise prescribed herein, all applications, notices and other documents required or permitted to be

filed by these regulations shall be filed in accordance with the provisions of subpart F of the regulations.

§ 500.6 Accuracy of information, statements and data.

Information, statements and data submitted in compliance with provisions of the Act or these regulations are subject to title 18, section 1001, of the United States Code, which provides:

Section 1001. Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

§ 500.7 Investigation authority of the Secretary.

(a) The Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate and, in connection therewith, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information as he deems necessary to determine compliance with the Act, or these regulations.

(b) The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in the Act, the Authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.