WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Fact Sheet #49: The Migrant and Seasonal Agricultural Worker Protection Act

Revised July 2008

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) 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 U.S. Department of Labor (DOL).

Farm Labor Contractor Registration

A Farm Labor Contractor (FLC) is someone who, for money or other valuable consideration paid or promised to be paid, recruits, solicits, hires, employs, furnishes or transports migrant and/or seasonal agricultural workers or, provides housing to migrant agricultural workers. Agricultural employers, agricultural associations and their employees are not included in the term.

Before performing any farm labor contracting activity, a farm labor contractor must register with the U.S. Department of Labor (DOL) and obtain a certificate of registration. A farm labor contractor must be specifically authorized to provide housing or transportation to migrant or seasonal agricultural workers prior to providing the housing or transportation. Persons employed by farm labor contractors to perform farm labor contracting activities also must register with DOL.

Farm labor contractors and farm labor contractor employees who perform farm labor contractor activities must carry proof of registration and show it to workers, agricultural employers, agricultural associations, and any other person with whom they deal as contractors.

Agricultural associations, agricultural employers, and their employees are not considered farm labor contractors and do not have to register. However, before they engage the services of any farm labor contractor, they must take reasonable steps to ensure that the contractor has a DOL certificate of registration valid for the services to be performed. To inquire about the validity of a certificate, call the Wage and Hour Division's toll-free number **1-866-4USWAGE (1-866-487-9243**).

Wages

Agricultural associations, agricultural employers, and farm labor contractors must pay workers their wages when due, and give workers itemized, written statements of earnings for each pay period, including any amount deducted and the reasons for the deduction.

Housing

Each person or organization which owns or controls a facility or real property used for housing migrant workers must comply with federal and state safety and health standards. A written statement of the terms and conditions of occupancy must be posted at the housing site where it can be seen or be given to the workers.

Transportation

Agricultural associations, agricultural employers, and farm labor contractors must assure that vehicles used or caused to be used by a farm labor contractor, agricultural employer, or agricultural association to transport workers are properly insured, are operated by licensed drivers, and meet federal and state safety standards.

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Disclosure

Agricultural associations, agricultural employers, and farm labor contractors must inform migrant and seasonal agricultural workers about prospective employment, including the work to be performed, wages to be paid, the period of employment, whether state workers' compensation or state unemployment insurance will be provided.

Agricultural associations, agricultural employers, and farm labor contractors must provide required information to seasonal workers when they are offered work, in writing if requested; and to migrant workers and seasonal day haul workers in writing when they are being recruited. Workers compensation information, however, must be provided in writing to any type of worker. Information must be written in English, Spanish or other language common to the workers, as appropriate. Once hired, migrant and seasonal workers have a right to receive upon request a written statement of such information.

Agricultural associations, agricultural employers, and farm labor contractors must display a poster where it can be seen at the job site which sets forth the rights and protections of the workers (posters are available from the Wage and Hour Division).

Recordkeeping

Agricultural associations, agricultural employers, and farm labor contractors must keep complete and accurate payroll records for all workers; in addition, farm labor contractors must give any other farm labor contractor, agricultural employer, or agricultural association to whom they supply workers, copies of payroll records for each worker supplied to that particular contractor, employer, or association.

Other Provisions

Farm labor contractors must comply with the terms of written agreements made with agricultural employers and agricultural associations.

Exemptions

Certain persons and organizations, such as small businesses, some seed and tobacco operations, labor unions, and their employees, are exempt from the Act.

Enforcement

The Wage and Hour Division of the U.S. Department of Labor administers MSPA. During investigations, Wage and Hour investigators may enter and inspect premises (including vehicles and housing), review and transcribe payroll records, and interview workers to determine compliance with MSPA. Investigators may advise violators to make changes necessary to achieve compliance.

Administrative actions under MSPA include penalties for each violation and, in the case of farm labor contractors, revocation or suspension of existing certificates and denial of future certificates of registration. For current maximum penality amount, see https://www.dol.gov/agencies/whd/agriculture/mspa#cmp . Failure to comply with MSPA may result in civil or criminal prosecution. To insure compliance with MSPA, the Secretary of Labor may seek court injunctions prohibiting further violations and may bring criminal charges. In addition, courts may assess fines and prison terms of up to three years in criminal cases.

In addition to the above remedies, individuals whose rights under MSPA have been violated may file suit directly in federal court for damages.

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Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.dol.gov/agencies/whd and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

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.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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