

Registration Requirement Under The Migrant and Seasonal Agricultural Worker Protection Act (MSPA)

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) covers such things as safety and health standards for migrant worker housing, transportation safety, disclosing the terms and conditions of employment to migrant and seasonal agricultural workers, properly paying covered workers, and making and keeping accurate payroll records. Generally, the MSPA applies to any person (or business) who recruits, solicits, hires, employs, furnishes, or transports migrant or seasonal agricultural workers (the MSPA refers to these activities as "farm labor contracting activities").

Under the MSPA, migrant agricultural workers are those employed in agricultural work of a seasonal or temporary nature who cannot return to their permanent residence at night because of the distance involved. Seasonal agricultural workers also are employed in agricultural work of a seasonal or temporary nature, but who are able to return to their permanent residence at night.

Before performing any "farm labor contracting activities," farm labor contractors are required to apply to the U.S. Department of Labor for a Certificate of Registration authorizing the applicant to engage in "farm labor contracting activities." Persons employed by farm labor contractors (farm labor contractor employees) to perform such activities on behalf of the contractor are also required to register with the Department. Application for a Certificate of Registration is made by completing and submitting the required application form (Form WH-530 for a farm labor contractor, Form WH-535 for a farm labor contractor employee, and Form WH-540 to amend a Certificate of Registration). Forms WH-530, WH-535, and WH-540 can be obtained electronically from this site or by contacting the nearest office of the Wage and Hour Division. The form can also be obtained from any local office of the state workforce agency or employment service.

Certain persons and organizations, such as small businesses meeting the exemption criteria of 29 U.S.C. § 213(a)(6)(A), are exempt from the Act and are not required to register as farm labor contractors. In addition, establishments meeting the MSPA definition of an "agricultural association" or "agricultural employer," are not required to register as a farm labor contractor. Contact the Wage and Hour Division at 1-866-4US-WAGE (1-866-487-9243), TTY: 1-877-889-5627, if you have any questions as to whether you must register with the U.S. Department of Labor as a

farm labor contractor. An instructional and information guide for completing Forms WH-530, WH-535, and WH-540 is attached.

IMPORTANT: Submitting the application form does not authorize you to engage in farm labor contracting activities. If the application is approved, you will be issued either a Farm Labor Contractor (FLC) or a Farm Labor Contractor Employee (FLCE) Certificate of Registration, at which time you may begin to engage in the authorized activities.

In addition, depending upon the specific activities you are seeking authorization for (*i.e.*, housing, transporting, or driving covered workers) you may have to submit additional forms/documentation with your application. This additional documentation may consist of one or more of the forms listed below:

- Fingerprint Card, FD-258
- Copy of Alien Registration Card
- Copy of Driver's License (front and back)
- Doctor's Certificate, WH-515
- Vehicle Mechanical Inspection Report for Transportation Subject to Department of Transportation Requirement, WH-514
- Vehicle Mechanical Inspection Report for Transportation Subject to Department of Labor Requirement, WH-514a
- Proof of Automobile Liability Insurance
- Workers' Compensation Information or Certificate of Workers' Compensation Insurance
- Insurance Cancellation Agreement under MSPA
- Housing Occupancy Certificate

Note that workers' compensation provides specific coverage and may not cover out-of-state travel or non-work-related travel. Also note that if transportation authorization is issued based on a workers' compensation insurance policy provided by a specific employer, the insurance coverage is limited to such times as the applicant is actually working for that employer.

The Wage and Hour Division of the U.S. Department of Labor administers and enforces the MSPA. For more information contact either the nearest office of State Workforce Agency (or State Employment Service), listed in most telephone

directories under State Government, or the Wage and Hour Division at 1-866-4US-WAGE (1-866-487-9243), TTY: 1-877-889-5627. The federal regulations implementing MSPA appear in 29 C.F.R. Part 500.

WH-530 (PDF) and WH-530 Spanish (PDF)

Complete this form if you are a **farm labor contractor**, meaning that you are:

- a person or business who recruits, solicits, hires, employs, furnishes, or transports migrant or seasonal agricultural workers for money or other benefit;
 - not an agricultural employer, agricultural association, or employee of an agricultural employer or association; and
- not subject to the exemption criteria found in 29 U.S.C. § 213(a)(6)(A) and 29 C.F.R. 500.30.

WH-535 (PDF) and WH-535 Spanish (PDF)

Complete this form if you are a **farm labor contractor employee**, meaning that you are:

- an employee of a registered farm labor contractor; and
- seeking to perform farm labor contracting activities **solely** on behalf of your employer.

WH-540 (PDF) and WH-540 Spanish (PDF)

Complete this form if you are a **farm labor contractor** or **farm labor contractor employee** with a currently valid Certificate of Registration, and you are seeking to:

- **amend** your Certificate of Registration; or
- request a **duplicate** Certificate of Registration.

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Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Please provide as much of the requested information as possible. Attach additional sheets if you need additional space to respond to a question. If you do not understand a term, or need assistance in the completion of this form, please contact the Wage and Hour Division of the U.S. Department of Labor. After you submit the form, a representative from the Department of Labor may contact you at the phone number and/or email you provide if further information is necessary.

Submission of Application

All applications for FLC and FLCE Certificates of Registration should be sent to:

U.S. Department of Labor
Wage Hour Division
National Farm Labor Certificate Processing
90 Seventh Street Suite 11-100
San Francisco, CA 94103

Phone Hours: 8:00am – 12:00pm and 1pm – 4:30pm Pacific Standard Time Monday through Friday, excluding Federal holidays.

General office hours are 8:00am - 12pm and 1pm- 4:30pm. NO drop ins.

Please call (415) 241-3505 or email mspafic@dol.gov for general inquiries.

What if I have questions as I complete the application?

The WH-530, WH-535, WH-540, WH-514, WH-514a and WH-515 include detailed instructions. Read them carefully. However, if you still have questions, you may contact the Certification Team at (415) 241-3505.

Note: In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at <http://www.adobe.com/products/acrobat/readstep2.html>