

## Wage and Hour Division, Labor

## § 500.41

business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(2) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with paragraph (i)(1) of this section by a person who is exempt thereunder.

(j) *Shade grown tobacco.* (1) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(2) Any person to the extent he is supplied with students or other individuals for agricultural employment is accordance with paragraph (j)(1) of this section by a person who is exempt thereunder.

(k) *Employees of exempt employers.* Any employee of any person described in paragraphs (c) through (j) of this section when performing farm labor contracting activities within the scope of such exemptions and exclusively for such person.

### Subpart B—Registration of Farm Labor Contractors and Employees of Farm Labor Contractors Engaged in Farm Labor Contracting Activities

#### REGISTRATION REQUIREMENTS; GENERAL

##### § 500.40 Registration in general.

Any person who desires to engage in any activity as a farm labor contractor, as defined in the Act and these

regulations, and is not exempt, is required first to obtain a Certificate of Registration authorizing each such activity. Any employee of a registered farm labor contractor who performs farm labor contracting activities solely on behalf of such contractor, and who is not an independent contractor, must obtain a Farm Labor Contractor Employee Certificate of Registration authorizing each such activity. The employee's certificate must show the name of the farm labor contractor for whom the activities are to be performed. The contractor whose name appears on the employee's certificate must hold a valid Certificate of Registration covering the entire period shown on the employee's certificate.

##### § 500.41 Farm labor contractor is responsible for actions of his farm labor contractor employee.

(a) A farm labor contractor is responsible for assuring that every employee who is performing farm labor contracting activities on behalf of such contractor has obtained either a Farm Labor Contractor Employee Certificate of Registration or a Certificate of Registration as an independent farm labor contractor, as required by the Act and these regulations, prior to such employee's engagement in any activity enumerated in section 3(6) of the Act. A farm labor contractor who utilizes the services of another farm labor contractor who is not his employee must also comply with the provisions of § 500.71. The farm labor contractor is responsible for any violations of the Act or these regulations committed by his employee, whether or not the employee has registered as required by the Act.

(b) A Farm Labor Contractor Employee Certificate of Registration is valid only during the period in which the holder is an employee of the registered farm labor contractor named on the Farm Labor Contractor Employee Certificate. If prior to the expiration of the Employee Certificate, the holder, through a change in employment, should become an employee of a different registered farm labor contractor, a replacement Employee Certificate which names the new employer may be obtained by submitting to the

**§ 500.42**

regional office that issued the original employee certificate or to any regional office of the Wage and Hour Division, Employment Standards Administration, a written statement that includes the date of the change in employment status and the name, the permanent place of residence and certificate registration number of the new employer. Any such change should be reported immediately.

**§ 500.42 Certificate of Registration to be carried and exhibited.**

Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities, a Certificate of Registration or a Farm Labor Contractor Employee Certificate as appropriate and, upon request, shall exhibit that certificate to representatives of the U.S. Department of Labor and State Employment Service Agencies and to all persons with whom he intends to deal as a farm labor contractor or farm labor contractor employee.

**§ 500.43 Effect of failure to produce certificate.**

The facilities and the services authorized by the Wagner-Peyser Act shall be denied to any farm labor contractor upon refusal or failure to produce, when asked, a Certificate of Registration. Services shall be provided upon presentation of a valid Certificate of Registration.

APPLICATIONS AND RENEWAL OF FARM LABOR CONTRACTOR AND FARM LABOR CONTRACTOR EMPLOYEE CERTIFICATES

**§ 500.44 Form of application.**

An application for issuance or renewal of a Farm Labor Contractor Certificate of Registration or Farm Labor Contractor Employee Certificate shall be made on forms designated by the Secretary.

**§ 500.45 Contents of application.**

The application shall set forth the information required thereon which shall include the following:

(a) A declaration, subscribed and sworn to by the applicant, stating the

**29 CFR Ch. V (7-1-04 Edition)**

applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and the address to which official documents should be mailed;

(b) A statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant for a Farm Labor Contractor Certificate of Registration is in compliance with the requirements of section 401 of the Act with respect to each such vehicle;

(c) A statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant for a Farm Labor Contractor Certificate of Registration is in compliance with section 203 of the Act with respect to each such facility or real property;

(d) A set of fingerprints of the applicant on Form FD 258 as prescribed by the U.S. Department of Justice;

(e) A declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service; and

(f) Such other relevant information as the Secretary may require.

**§ 500.46 Filing an application.**

Registration under the Act is required whether or not licensing or registration is required under State law.

**§ 500.47 Place for filing application.**

Application forms may be filed in any State Employment Service Office or in any office of the Wage and Hour Division, U.S. Department of Labor.

ACTION ON APPLICATION

**§ 500.48 Issuance of certificate.**

The Administrator or authorized representative shall: