

Wage and Hour Division, Labor

§ 500.212

(1) To suspend or revoke, or to refuse to issue or renew, a Certificate of Registration authorized under the Act and these regulations; and

(2) To impose an assessment of civil money penalties for violations of the Act or of these regulations.

(b) The procedures and rules contained herein also specify the administrative responsibility under section 102(5) of the Act with regard to a designation by a court of the Secretary as an agent of an applicant for a certificate of registration in any action against such applicant, if said applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

PROCEDURES RELATING TO HEARING

§ 500.210 Written notice of determination required.

(a) Whenever the Secretary determines to suspend or revoke, or to refuse to issue or renew, a Certificate of Registration, the applicant for or the holder of such certificate shall be notified in writing of such determination.

(1) In cases involving a determination relating to a Certificate of Registration applied for by, or issued to, a farm labor contractor, written notice shall also be given to every applicant for or holder of a Certificate of Registration as an employee of such contractor.

(2) In cases involving a determination relating to a Farm Labor Contractor Employee Certificate of Registration, written notice shall also be given to the farm labor contractor of such applicant or certificate holder.

(b) Whenever the Secretary determines to assess a civil money penalty for a violation of the Act or these regulations, the person against whom such penalty is assessed shall be notified in writing of such determination.

§ 500.211 Contents of notice.

The notice required by § 500.210 shall:

(a) Set forth the determination of the Secretary and the reason or reasons therefor.

(b) Set forth, in the case of a civil money penalty assessment:

(1) A description of each violation; and

(2) The amount assessed for each violation.

(c) Set forth the right to request a hearing on such determination.

(d) Inform any affected person or persons that in the absence of a timely request for a hearing, the determination of the Secretary shall become final and unappealable.

(e) Set forth the time and method for requesting a hearing, and the procedures relating thereto, as set forth in § 500.212.

§ 500.212 Request for hearing.

(a) Any person desiring to request an administrative hearing on a determination referred to in § 500.210 shall make such request in writing to the official who issued the determination, at the Wage and Hour Division address appearing on the determination notice. Such request must be made no later than thirty (30) days after the date of issuance of the notice referred to in § 500.210.

(b) The request for such hearing shall be delivered in person or by mail to the Wage and Hour Division office at the address appearing on the determination notice upon which the request for a hearing is based, within the time set forth in paragraph (a) of this section. For the affected person's protection, if the request is by mail, it should be by certified mail.

(c) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(1) Be typewritten or legibly written on size 8½"×11" paper;

(2) Specify the issue or issues stated in the notice of determination giving rise to such request;

(3) State the specific reason or reasons why the person requesting the hearing believes such determination is in error;

(4) Be signed by the person making the request or by an authorized representative of such person; and

(5) Include the address at which such person or authorized representative desires to receive further communications relating thereto.

§ 500.215

(d) Civil money penalties under FLCRA shall be treated as follows:

(1) Determinations to assess civil money penalties for violations of FLCRA made prior to April 14, 1983 shall continue until a final administrative determination shall have been made in accordance with 29 CFR part 40.

(2) Determinations to assess civil money penalties for violations of FLCRA arising prior to April 14, 1983, made on or after April 14, 1983, shall continue until a final administrative determination shall have been made in accordance with these regulations.

[48 FR 36741, Aug. 12, 1983, as amended at 54 FR 13329, Mar. 31, 1989; 57 FR 5942, Feb. 18, 1992; 71 FR 16665, Apr. 3, 2006]

PROCEDURES RELATING TO SUBSTITUTED SERVICE

§ 500.215 Change of address.

(a) Pursuant to section 105(1) of the Act, every holder of a Certificate of Registration shall notify the Secretary within thirty (30) days of each change of permanent place of residence. Said persons may also furnish additional mailing addresses.

(b) The notification required in paragraph (a) of this section shall be in writing, by certified mail and addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

(c) Such change of address shall be deemed effective upon receipt by the Administrator, unless a later date is specified in the notice.

§ 500.216 Substituted service.

(a) Pursuant to section 102(5) of the Act, the Secretary, when so designated by a court, shall accept service of summons in any action arising under the Act or these regulations against any applicant for or any holder of a Certificate of Registration who has left the jurisdiction in which such action is commenced or otherwise has become unavailable to accept such service.

(b) Acceptance of service of summons referred to in paragraph (a) of this section shall be under such terms and conditions as are set by the court in its

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designation of the Secretary for the purpose of section 102(5) of the Act.

(c) To be effective, such service shall be made by delivery personally or by certified mail, either to the Administrator of the Wage and Hour Division in Washington, DC, or to the Administrator's authorized representative located in the area in which the action has been commenced.

§ 500.217 Responsibility of Secretary for service.

Upon receipt of any substituted service, as described in § 500.216, the same shall be forwarded by certified mail to the permanent address furnished by the person for whom service is accepted and to such other address as may be determined appropriate by the Secretary. Such mailing shall complete the Secretary's responsibility in connection with the substituted service requirement of the Act.

RULES OF PRACTICE

§ 500.219 General.

Except as specifically provided in these regulations, the "Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges" established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings under MSPA.

[48 FR 36741, Aug. 21, 1983. Redesignated at 54 FR 13329, Mar. 31, 1989]

§ 500.220 Service of determinations and computation of time.

(a) Service of determinations to suspend, revoke, refuse to issue, or refuse to renew a certificate of registration or to assess a civil money penalty shall be made by personal service to the individual, officer of a corporation, or attorney of record or by mailing the determination to the last known address of the individual, officer, or attorney. If done by certified mail, service is complete upon mailing. If done by regular mail or in person, service is complete upon receipt by the addressee or the addressee's representative;

(b) Time will be computed beginning with the day following the action and