

**§ 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

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includes the last day of the period unless it is a Saturday, Sunday, or Federally observed holiday, in which case the time period includes the next business day; and

(c) When a request for hearing is filed by mail, five (5) days shall be added to the prescribed period during which the party has the right to request a hearing on the determination.

[54 FR 13329, Mar. 31, 1989]

### § 500.221 Commencement of proceeding.

Each administrative proceeding permitted under the Act and these regulations shall be commenced upon receipt of a timely request for hearing filed in accordance with § 500.212.

### § 500.222 Designation of record.

Except as provided in paragraph (c) of this section:

(a) Each administrative proceeding instituted under the Act and these regulations shall be identified of record by a number preceded by the year and the letters "MSPA" and followed by one or more of the following designations:

(1) Proceedings involving the "refusal to issue or to renew, or to suspend or to revoke Certificate of Registration" shall be designated as "R".

(2) Proceedings involving the "assessment of civil money penalties" shall be designated as "P".

(3) Proceedings involving both Certificate of Registration and assessment of civil money penalties shall be designated as "R and P".

(b) The number, letter(s), and designation assigned to each such proceeding shall be clearly displayed on each pleading, motion, brief, or other formal document filed and docketed of record.

(c) Each administrative proceeding involving violations of FLCRA prior to April 14, 1983 and filed with the Office of the Chief Administrative Law Judge on or after April 14, 1983, shall be identified of record by a number preceded by the year and the letters "FLCRA-MSPA" and followed by one or more of the letter designations provided in paragraphs (a)(1) through (a)(3) of this section, i.e., (year) -FLCRA-MSPA-(#)-(R and/or P).

### § 500.223 Caption of proceeding.

(a) Each administrative proceeding instituted under the Act and these regulations shall be captioned in the name of the person requesting such hearing, and shall be styled as follows:

In The Matter of \_\_\_\_, Respondent.

(b) For the purposes of such administrative proceeding the "Secretary of Labor" shall be identified as plaintiff and the person requesting such hearing shall be named as respondent.

### REFERRAL FOR HEARING

### § 500.224 Referral to Administrative Law Judge.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 500.212, the Secretary, by the Associate Solicitor for the Division of Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, shall, by Order of Reference, promptly refer an authenticated copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief Administrative Law Judge, for a determination in an administrative proceeding as provided herein. The notice of administrative determination and request for hearing shall be filed of record in the Office of the Chief Administrative Law Judge and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to any amendment that may be permitted under these regulations.

(b) In cases involving a denial, suspension, or revocation of a Certificate of Registration (Farm Labor Contractor Certificate; Farm Labor Contractor Employee Certificate) or "certificate action," including those cases where the farm labor contractor has requested a hearing on civil money penalty(ies) as well as on the certificate action, the date of the hearing shall be not more than sixty (60) days from the date on which the Order of Reference is filed. No request for postponement