

*(Gen.) Farm Labor Reg. Act (FLRA)*

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
Wage and Hour Division  
WASHINGTON, D.C. 20210

*(Alpha) Toothaker*  


March 9, 1977

This will confirm the advice that I gave you on March 4 as to the Department of Labor's position on how the Farm Labor Contractor Registration Act applies in several situations.

The Act requires that a user determine before engaging the services of a farm labor contractor to supply farm labor that the contractor has a Certificate of Registration that is in full force and effect at the time the user contracts with the farm labor contractor. The term "full force and effect" means that where the contractor is transporting farm laborers on behalf of the user the contractor must have a Certificate of Registration authorizing such transportation, or if the contractor houses farm laborers on behalf of the user, the user must determine that the Certificate authorizes the contractor to house farm laborers. Otherwise, the Certificate is not considered to be in full force and effect. Thus, the user when contracting with the farm labor contractor to provide services should determine that the farm labor contractor has a valid Certificate of Registration in full force and effect which authorizes the contractor to perform the services required to fulfill his contract with the user.

The other problem we discussed involves whether certain users of farm labor contractors are themselves required to obtain a Certificate of Registration. The four types of users in question are listed in your letter of September 16, 1976:

- 1) cash buyer of fruits or vegetables;
- 2) cooperative;
- 3) commission or consignment handler; and
- 4) those who handle only their own products.

These four types of users operate as follows according to your letter of September 16, 1976:

1. Cash buyers are buyers who buy citrus or vegetables or both for cash. They might buy on a per-acre basis or a per-ton basis or in any other unit. They pay cash to the grower or producer regardless of what profit or loss they might make on the crop, and title passes to them at the time of the purchase.

2. Cooperatives are organizations formed under the Farmers Co-op Statutes of the State of [REDACTED]. The members pool their fruits or vegetables, and the cooperative does the harvesting, packing, selling and shipping on behalf of its members. It does not make a profit but merely withholds an amount sufficient to cover its expenses for these services, and remits the balance to the grower-member.


3. Commission - Consignment Handler. In some instances shippers will handle fruits or vegetables on a commission basis. They will agree with the producer to harvest, pack, sell and ship the produce for a specified unit cost. All profit over and above this unit cost is remitted directly to the producer.

4. Handlers of their own items. These shippers are large growers and producers who harvest, pack, sell and ship only fruits and vegetables produced on their own farms or groves. They own the land, farm the crops, arrange for all labor used in growing and producing the crops as well as in the handling and packing.

Those who handle their own products do constitute one of the named operations in section 3(b)(2) and the exemptions in section 3(b)(2) and 3(b)(3) are available where all the terms and conditions are met. Ordinarily, such a user would not need to register except where a full time employee engages in farm labor contractor activity on more than an incidental basis on its behalf.

We have concluded that the other three types of users do not come within the wording of section 3(b)(2) and thus would themselves be required to obtain a Certificate of Registration.

Sincerely,



Warren D. Landis  
Acting Administrator