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in the absence of the insurance certificate referred to under paragraph (e) of this section, the Department of Labor will look to the actual policy of insurance in determining compliance with the insurance requirements.

[48 FR 36741, Aug. 12, 1983, as amended at 57 FR 3905, Jan. 31, 1992; 61 FR 24866, May 16, 1996]

§ 500.122 Adjustments in insurance requirements when workers' compensation coverage is provided under State law.

(a) If a farm labor contractor, agricultural employer or agricultural association referred to in § 500.120 is the employer of a migrant or seasonal agricultural worker for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the insurance requirements relating to having an insurance policy or liability bond apply:

(1) Except as provided in § 500.123, no vehicle liability insurance policy or liability bond shall be required of the employer, if such worker is transported only under circumstances for which there is coverage under such State law.

(2) A liability insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such worker is not provided under such State law.

(b) [Reserved]

(c) A farm labor contractor, agricultural employer or agricultural association who is the employer of a migrant or seasonal agricultural worker may evidence the issuance of workers' compensation insurance and passenger insurance under paragraph (a) of this section by obtaining and making available upon request to the Department of Labor:

(1) A workers' compensation coverage policy of insurance; and

(2) A certificate of liability insurance covering transportation of all passengers who are not employees and of workers whose transportation by the employer is not covered by workers' compensation insurance. See § 500.121.

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(d) In the absence of the insurance certificate referred to under paragraph (c)(2) of this section, the Department of Labor will look to the actual policy of insurance or liability bond in determining compliance with the Act and these regulations.

[48 FR 36741, Aug. 12, 1983, as amended at 56 FR 30327, July 2, 1991; 61 FR 24866, May 16, 1996]

§ 500.123 Property damage insurance required.

(a) When a person who is an employer of a migrant or seasonal agricultural worker provides workers' compensation insurance which protects such worker in the event of bodily injury or death while the worker is being transported, such person must also obtain insurance providing a minimum of \$50,000 for loss or damage in any one accident to the property of others (excluding cargo), or evidence of a general liability insurance policy that provides the same protection.

(b) Such person may evidence the purchase of motor carrier insurance or other appropriate insurance providing such property damage protection by obtaining and making available upon request to the Department of Labor a vehicle or other liability certificate of insurance showing that such person has obtained the property damage insurance required under paragraph (a) of this section.

(c) In the absence of the insurance certificate referred to in paragraph (b) of this section, the Department of Labor will look to the actual policy of insurance in determining compliance with paragraph (a) of this section.

§ 500.124 Liability bond in lieu of insurance policy.

Financial responsibility in lieu of insurance may be evidenced by a liability bond executed as the "principal" by the person who will be transporting a migrant or seasonal agricultural worker, together with a third party identified in the instrument as the "surety", to assure payment of any liability up to \$500,000 for damages to persons or property arising out of such person's ownership of, operation of, or causing to be operated any vehicle for the

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transportation of such worker in connection with the person's business, activities, or operations. The "surety" shall be one which appears on the list contained in Treasury Department Circular 570, or which has been approved by the Secretary under the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406). Treasury Department Circular 570 may be obtained from the U.S. Treasury Department, Audit Staff, Bureau of Government Financial Operations, Washington, DC 20226.

§ 500.125 Qualifications and eligibility of insurance carrier or surety.

A policy of insurance or liability bond does not satisfy the financial responsibility of requirements of the Act and these regulations unless the insurer or surety furnishing the policy or bond to any farm labor contractor, agricultural employer or agricultural association is:

(a) Legally authorized to issue such policies or bonds in the State in which the transportation occurs; or

(b) Legally authorized to issue such policies or bonds in the State in which the farm labor contractor, agricultural employer or agricultural association has its principal place of business or permanent residence and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the transportation occurs; or

(c) Legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the transportation occurs.

§ 500.126 Duration of insurance or liability bond.

Any insurance policy or liability bond which is obtained pursuant to the Act shall provide the required coverage

for the full period during which the person shall be engaged in transporting any migrant or seasonal agricultural worker within the meaning of the Act.

§ 500.127 Limitations on cancellation of insurance or liability bond of registered farm labor contractors.

Any insurance policy or liability bond obtained by a farm labor contractor who is required to register with the Department of Labor shall provide that it shall not be cancelled, rescinded, or suspended, nor become void for any reason whatsoever during such period in which the insurance or liability bond is required by the Act to be effective, except upon the expiration of the term for which it is written; or unless the parties desiring to cancel shall have first given thirty (30) days notice to the Administrator. The notice will include a statement setting forth the reason for cancellation, rescission, suspension, or any other termination of such policy or bond. The notice shall be in writing and forwarded via certified or registered mail, addressed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Said thirty (30) days notice shall commence to run from the date notice is actually received by the Administrator.

§ 500.128 Cancellation of insurance policy or liability bond not relief from insurance requirements.

Cancellation, rescission, suspension, or any other termination of any insurance policy or liability bond required by the Act does not relieve a person who transports or causes to be transported any migrant or seasonal agricultural worker in any vehicle under his ownership or control of the responsibility to comply with the insurance requirements specified in §§ 500.121, 500.122 and 500.123.

HOUSING SAFETY AND HEALTH

§ 500.130 Application and scope of safety and health requirement.

(a) Each person who owns or controls a facility or real property which is used as housing for any migrant agricultural worker must ensure that the facility or real property complies with