

Form WH-505

AGRICULTURE ACCIDENT / INJURY / ILLNESS INCIDENT REPORT

District Office: _____

Case Contact: _____

Incident Type: **Transportation Accident** **Other Accident** **Illness** **Fatality**

Investigation Subject: _____

Other Party with Joint Responsibility: _____

WHISARD Case ID #: _____

WHISARD Case ID #: _____

Registration Number (if FLC): _____

Registration Number (if FLC): _____

Act(s) Involved: MSPA H-2A OSHA FSS OSHA TLC FLSA-CL Other

OSHA Notified: Yes No

Coverage / Location and Description of Accident / Injury / Illness

Number of Injuries _____ Fatalities _____ Illnesses _____

Applicable Standard(s) / Potential Violations (including cite)

Date of NO & RO Notification: _____

Date of Consultation with RO and NO prior to Final Conference: _____

Remarks (including information on referrals made/received & anticipated date of any reports to be received from other agencies)

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Instructions for Completion/Submission

Incidents of accidents or illnesses reported by the media or received through other sources that appear to involve agricultural workers are to be immediately reported to the RO and NO and investigated. The scope of such incidents includes, but is not limited to, the following: all transportation accidents that appear to involve agricultural workers; incidents / accidents in the field or in temporary labor camps that warrant emergency medical treatment or hospitalization or result in loss of work; an outbreak of a communicable disease or of food poisoning at a migrant labor camp; or death or injury / illness resulting from a fire at migrant housing, etc.

Immediate notification of the incident is to be made to the NO Farm Labor Team and to the RO. Form WH-505 can be used for the preliminary reporting to provide as much information as is available at the time we learn of the incident and is to be used for subsequent, more complete reporting. For Child Labor, this form is to be used in conjunction with reporting requirements in FOH 52g07 but does not replace those requirements. Until the form is operational in WHISARD, the completed form is to be simultaneously emailed by the DD/ADD to the NO/OEP Farm Labor Team Leader and the Regional Agricultural Coordinator. Before the final conference with the employer, a conference call involving the NO/OEP Farm Labor Team is to be held.

Coverage: Provide a concise description of the basis upon which coverage is asserted and include other information as needed.

Example: “Subject recruits, hires, employs, furnishes, and transports MAWs for a fee; meets the MSPA § 3(7) definition of a FLC. No exemptions appear applicable. Accident involved a combine; exclusion from transportation requirements in 29 CFR 500.103(a) not applicable since combine was being used to carry 7 workers down a public road.”

Example: “Subject hires, employs, and transports 14 MAWs and 7 SAWs – and meets the MSPA §3(2) definition of a AGER. No exemptions appear applicable. Transports workers in 1996 Dodge van VIN 34567 with passenger capacity of 12; trips are 46 miles one-way; vehicle is subject to safety standards in 29 CFR 500.105.”

Example: “Subject has been certified by ETA to employ H-2A workers and currently employs 25 H-2A visa workers and 5 U.S. workers engaged in corresponding employment. H-2A covered transportation subject to state law per 20 CFR 655.102(b)(5)(iii); MSPA transportation safety requirements in 29 CFR 500.105 also apply to these corresponding workers.”

Location and Description of Accident/Illness: Provide a clear and concise description of where the accident or illness occurred (state, county, and specific location) and what occurred (if this is based upon a report from another agency, indicate the source of the report). If there were injuries or fatalities, indicate the number in the corresponding space. If the incident is illness, report the number of people involved and the source of the information.

If reporting on a transportation accident, include the following for each vehicle: make, model, year, vehicle identification number (VIN), the names of the registered owner and the driver, the passenger capacity, and the number of passengers (including the driver). More detailed information will need to be included in the investigation file (see FOH 57e13).

Applicable Standard(s) / Potential Violations: Identify the standard(s) determined to be applicable, and provide specific statutory and/or regulatory cites with a clear and concise description of the violation. More detailed information will need to be provided in the narrative report. For transportation, indicate which standard was used (29 CFR 500.104 or 29 CFR 500.105) and the basis for asserting the standard used. For housing, indicate which was used (29 CFR 1910.142 (OSHA) or 20 CFR 654.404 (ETA)) and the basis for asserting the standard used.

Example: “29 CFR § 500.100(a) – *General obligations*. Sheriff deputy’s preliminary report states subject failed to observe State mandated maximum posted speed limit by driving the vehicle in excess of 75 m.p.h. in a 45 m.p.h. maximum speed zone.”

Example: “29 CFR § 500.105(b)(3)(vi)(D) – *Seats*. Failed to provide seating - subject transported 24 workers in 1995 blue Ford F350 VIN #34356; cab of vehicle rated for 6 passengers; after-market cap with rear seating for additional 8 passengers; total capacity for only 14.”

Example: “20 CFR § 655.102(b)(5)(iii) – *Transportation between living quarters and worksite*. Subject transporting 7 H-2A workers; subject to state transportation law (see [cite]); State Highway Patrol arrest report states that driver’s blood alcohol concentration at the time of the accident exceeded proscribed level of 0.08 (see [cite]).”

Example: “29 CFR § 500.130(a) – *MSPA safety & health conducted under 1910.142*. State has adopted National Electrical Code (see [cite]). Exposed wiring found in Building 3. Violates code - Sec. §2420.3(a). Exposed Wiring: Open exposed wiring shall not be installed in any building or portion of a building.

Example: “29 CFR § 1928.110(c)(1)(i) – *17 workers in field*. No potable water provided. Temperature recorded as 101 degrees. 5 workers (MAWs) hospitalized for heat stroke – 2 in critical condition.”

Example: “29 CFR § 1910.142(l)(2) – *Failure to report salmonella bacterium outbreak/poisoning to local health authorities* – 10 workers poisoned – 2 fatalities.”

Remarks: List all known aggravating or mitigating factors and all referrals to and from other agencies.