

AGRICULTURE GROUP TRANSPORTATION FLEET SAFETY PROGRAM

Purpose

Transportation related accidents is the leading cause of work-related deaths for Florida's farm workers, responsible for 83 fatalities and more than 400 injuries from 1992 to 2005. Only California, which has more farm laborers, has had more such deaths over the past decade

The purpose of this program is to establish a fleet safety policy and other standards regarding group transportation of migrant and seasonal farm workers.

General obligations

Each farm labor contractor, agricultural employer and agricultural association which uses, or causes to be used, any vehicle to transport a migrant or seasonal agricultural worker shall ensure that such vehicle conforms to vehicle safety standards prescribed by the Secretary of Labor under the Act and with other applicable Federal and State safety standards. Each farm labor contractor, agricultural employer and agricultural association shall also ensure that each driver of any such vehicle has a currently valid motor vehicle operator's permit or license, as provided by applicable State law, to operate the vehicle.

Applicable Laws

The transportation of migrant and seasonal farm workers is governed by the DOT's Federal Motor Carrier Safety Regulations and regulations adopted by the U.S. Department of Labor (DOL) in implementing the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

The DOL adopted, virtually intact, the Federal Motor Carrier Safety Regulation dealing with the transportation of migrant and seasonal agricultural workers.

In addition, the DOL adopted its own vehicle standards for automobiles and station wagons used to transport migrant and seasonal agricultural workers and all other vehicles used to transport migrant and seasonal agricultural workers for trips of seventy-five miles or less (excluding day-haul operations) . (See *Migrant and Seasonal Agricultural Worker Protection Act (MSPA) [Federal].*)

All transportation of migrant and seasonal agricultural workers, whether on the farm or on the road, shall be subject to the vehicle safety standards of the Act, except for activities under the circumstances set out in Sec. 500.103.

The regulations contain provisions setting forth the qualifications of drivers or operators ; the driving of motor vehicles, parts, accessories necessary for safe operation, hours of service by drivers, maximum driving time, and inspection and maintenance of motor vehicles.

Fleet Safety Program Outline

The 10-Step Program provides guidelines for what an employer can do to improve traffic safety performance and minimize the risk of motor vehicle crashes. Following these steps helps to ensure that you hire capable drivers, only allow eligible drivers to drive on company business, train them, supervise them, and maintain company vehicles properly.

1. Management Commitment
2. Employee Selection & Retention
3. Driver Supervision
4. Driver Training
5. Driver Motivation
6. Accident Investigation & Analysis
7. Vehicle Maintenance & Inspection
8. Vehicle Selection and Replacement
9. Seat Belt Use Policy for non-buses
10. Regulatory Compliance

1: Management

Develop a written safety policy statement which indicates support from top management.

Develop written safety rules, including provisions for enforcement.

Provide for periodic review of safety policies, procedures, and rules.

Clearly demonstrate support and interest in fleet safety.

Designate a fleet safety coordinator and provide the coordinator with the authority to implement the fleet safety program.

Establish policies and procedures by which all levels of the organization are held accountable for their roles in fleet safety and to ensure compliance with all applicable standards or regulations.

2: Employee Selection & Retention

Require MVRs from all prospective drivers. Institute a semi-annual motor vehicle record check for all drivers.

Set standards for evaluating MVRs and spell out what actions are to be taken based upon the number of points or types of violations.

Require all drivers to take a road or performance test using the vehicle they are to drive. Document the results of the test.

Periodically review personnel policies regarding compensation and benefits to ensure that quality drivers will be attracted and retained.

3: Driver Supervision

Monitor the performance of current drivers by riding with them or following them. Document the results. Counsel drivers concerning problems or deficiencies that were observed.

Over the road observation in an unmarked car or use of an observation service company.

Equip vehicles with driver performance monitoring equipment to record average speed, maximum speed, and other information.

Review driver files periodically to make certain that the files are current.

Set disciplinary standards and penalties for drivers involved in preventable accidents. (Preventability does not always mean legally at fault. It may mean failure to drive defensively.)

Ensures that all vehicles and loads are in compliance with applicable standards and regulations.

Supervisors should talk to individual drivers weekly or monthly about safety -- personally communicate support and concern for the safety of the driver.

Post the Company phone number on the back of all vehicles with signs encouraging the reporting of both good and bad drivers. Another option would be to sign up with a 1-800 vehicle monitoring company.

Clearly post the name, address and phone number of the Company on the side of the vehicle.

4: Driver Training

Drivers are trained in how to comply with all standards and regulations which apply to their equipment and loads.

Hold periodic driver safety meetings to discuss observed or potential problems. If getting drivers together is a problem, at least hold an annual safe driver award meeting/dinner.

Hold weekly or monthly "tool box" talks of 5 to 15 minutes. This could include individual talks with each driver over the course of the month on a particular topic.

Require drivers to attend a defensive driving course periodically, (every 3 years or if performance appears to be deteriorating).

Make use of safety posters and pamphlets. Materials sent to the home often help to involve the spouse in safety.

5: Driver Motivation

Make use of safety pins and prizes to recognize safe drivers. Monetary prizes are not as effective as merchandise or recognition items.

Post the number of accident free miles driven by each driver.

Hold safety drawings, contests and truck rodeos.

Link any Christmas or annual performance bonus to the drivers' safety performance.

6: Accident Investigation & Analysis

Investigate all accidents to determine their true cause and means of prevention. Do not look for only one cause or accept superficial excuses.

Form an accident review committee of management and drivers. Accidents should be reviewed in terms of preventable vs nonpreventable.

When reviewing accidents, identify any weaknesses in the loss control program which might require strengthening.

Ensure that drivers are familiar with procedures to follow after an accident to ensure that all needed data is gathered and that the driver does not say anything to jeopardize the company's interests.

7: Vehicle Maintenance & Inspection

Vehicles should be on a preventive maintenance schedule for servicing and checking of safety related equipment.

Vehicle safety equipment should be inspected daily. Inspections should be documented and work orders generated to correct all deficiencies or problems.

The Federal Motor Carrier Safety Administration 49 Federal motor carrier regulations under 49 CFR 396 and The Migrant and Seasonal Agricultural Worker Protection Act (WH-514a) contain a checklist for CMV systems and parts that must be inspected.

Personal vehicles used for company business are not necessarily subject to the same criteria and are generally the responsibility of the owner. However, personal vehicles used on company business should be maintained in a manner that provides the employee with maximum safety and reflects positively on the company.

8: Vehicle Selection & Replacement

Ensure that vehicles selected for purchase or for a specific function are adequate in design and capability for the intended purpose.

Florida statute 316.003 (3) defines a bus as any motor vehicle designed for carrying more than ten passengers and used for the transportation of persons in commerce.

A van designed for carrying cargo, typically without windows along both sides of the passenger-carrying area, is a *truck*. This regulation specifically prohibits the use of closed vans without windows or means to assure ventilation for transporting migrant or seasonal workers.

9: Seat Belt Use Policy for non-buses

(Name of Company/Organization) recognizes that seat belts are extremely effective in preventing injuries and loss of life. It is a simple fact that wearing your seat belt can reduce your risk of dying in a traffic crash by 45 percent in a car and by as much as 60 percent in a truck, van or SUV.

We care about our employees, and want to make sure that no one is injured or killed in a tragedy that could have been prevented by the use of seat belts.

Therefore, all employees of (Name of Company/Organization) must wear seat belts when operating a company-owned vehicle, or any vehicle on company premises or on company business; and all occupants are to wear seat belts or, where appropriate, child restraints when riding in a company-owned vehicle, or in a personal vehicle being used for company business. All employees and their families are strongly encouraged to always use seat belts and the proper child restraints whenever they are driving or riding in any vehicle, in any seating position.

10: Regulatory Compliance

Ensure adherence to highway safety regulations. It is important to clearly establish which, if any, local, state, and/or federal regulations govern your vehicles and/or drivers. These regulations may involve, but may not necessarily be limited to the:

Federal Motor Carrier Safety Administration (FMCSA)

2003 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Migrant and Seasonal Agricultural Worker Protection Act (MSPA) [Federal]1

2003 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Transportation -- Motor Carrier Safety Regulations for Transporting Migrant Farm Workers [Federal]¹

2003 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Transportation of Migrant Farm Workers [State]¹

The 2009 Florida Statutes <> 316.622 Farm labor vehicles

2003 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Transportation -- Motor Carrier Safety Regulations for Transporting Migrant Farm Workers [Federal]¹

Driver, Vehicle, and Insurance Requirements

These regulations apply to farm labor contractors and growers who provide transportation of any migrant or seasonal agricultural worker. These regulations do not cover tractors, harvesting, or similar equipment while the equipment is engaged in planting, cultivating, or harvesting.

Car Pooling: New DOL regulations (May 1996) explain how car-pooling situations are treated where neither the grower nor FLC has anything whatsoever to do with arrangements between individual workers and an unregistered person who uses his or her own vehicle to transport workers:

- To be exempt from MSPA-covered transportation arrangements, car-pooling must be on a voluntary basis. If growers help to organize car pools, they likely will lose their exempt status. The workers themselves must pay the driver any cost reimbursement amount they work out. It is permissible, however, for a grower to provide workers a travel advance to cover travel to the worksite without creating MSPA coverage.
- If the driver in a voluntary car-pool situation is to avoid becoming a farm labor contractor within the meaning of MSPA, he or she must collect from his or her fellow workers no more than an amount which reasonably reflects the actual costs of shared transportation.

Vehicle Standards: Transportation standards apply whether on the farm or on the road. DOL has standards in effect that cover passenger automobiles, station wagons, and the cabs of pick-ups regardless of the distance they travel in connection with transportation of migrant or seasonal workers and regardless of the type of workers carried. These regulations apply also to other vehicles if the round-trip distance over which migrant or seasonal workers are transported is less than seventy-five miles and if the vehicle is not used for a day-haul operation.

Vehicles used for day-haul and vehicles used or intended to be used for transportation of migrant or seasonal agricultural workers for a round-trip distance greater than seventy-five miles must meet the regulations issued by the Interstate Commerce Commission. These include driver qualification and driving standards, as well as vehicle standards.

Qualification of Drivers

- Every driver and everyone responsible for hiring, supervising, training, assigning, and dispatching drivers must comply with and be conversant with the requirements applicable to drivers.
- Drivers must meet DOT physical requirements and have obtained a medical examination of such compliance and certification within the immediately preceding 36-month period [Form WH-515]. Copies must be maintained. The driver must carry proof of certification with him or her when driving. The employer must maintain a copy of his or her principal place of business.
- Drivers must be at least twenty-one years of age, with at least one year of driving experience.
- Drivers must be able to read and speak English sufficiently to understand traffic signals in English and to respond to official inquiries.
- Drivers must possess a valid permit qualifying the driver to operate the type of vehicle driven by him or her.

Driving of Motor Vehicles

- Drivers must be instructed to and must in fact drive in accordance with the law and regulations as well as be conversant with the requirements of the regulations.
- Drivers may not drive under the influence of alcoholic beverages nor, regardless of alcoholic content, drink any such beverage or liquor while on duty.

- No person shall permit or require operation of vehicles between such points in such a period of time so as to allow or necessitate operation of vehicle in excess of applicable speed limits.
- Drivers may not operate any vehicle until they have satisfied themselves that prescribed parts, accessories, and emergency devices are in good working order.
- Drivers may not operate vehicles loaded so heavily or so improperly distributed or inadequately secured as to prevent safe operation of vehicles.
- Tailgates and doors must be securely in place during operation.
- No objects may obscure a driver's view or freedom of motion or prevent ready exit in emergency.
- Vehicles may not carry more passengers than seating capacity; passengers must remain seated.
- Every person shall provide for meal stops at intervals not to exceed six hours and for a period of not less than thirty minutes duration. There must be at least one rest stop between each meal stop.
- No person shall drive nor shall any person permit or require a driver to drive for more than ten hours in the aggregate (excluding rest stops and stops for meals) in any 24-hour consecutive period unless the driver has been afforded eight consecutive hours' rest immediately following the ten hours' aggregate driving.

Vehicle Use Restrictions: Vehicles transporting workers include only buses, trucks without trailers attached, and one semi-trailer attached to a truck tractor with no other trailer attached. Closed vans without windows or ventilation may not be used. Trucks must meet compartment requirements: fixed seats, ventilators, etc.:

- Any truck used for transporting workers over 600 miles must be stopped for a period not less than eight consecutive hours before or upon completion of 600 miles travel and any subsequent 600-mile intervals.
- Required lamps and reflectors cannot be obscured and must be operational.
- Drivers must take prescribed steps to avoid fuel ignition, including turning off engine to fuel vehicle and not smoking near vehicles being fueled. Drivers may not carry reserve fuel except in properly mounted fuel tanks.
- Except in an emergency, no driver shall permit any unauthorized person to drive his or her vehicle.
- Protection of passengers from weather must be provided.
- Driver must set parking brake and block wheels on leaving vehicle.

- Rear of vehicle should display "This vehicle stops at railroad crossing" signs and comply with all regulations pertaining to railroad crossings.

Note: Any driver operating a vehicle with sixteen or more passengers must have a Commercial Driver's License (COL). (See EDIS document FE418, *Transportation - Motor Carrier Safety Regulations for Transporting Migrant Farm Workers [Federal.]*)

Also, DOT Physical Examination Form CO-730, valid for twenty-four months, is an acceptable substitute for Form WH-515.

Insurance and Liability Bond Requirements

Neither farm labor contractors nor agricultural employers may transport any migrant or seasonal agricultural worker nor his or her property in any vehicle unless they have insurance policies or liability bonds in effect at specified minimum levels based on seating capacity of each particular vehicle. Vehicle liability cannot be less than \$100,000 for each seat, but the total insurance is not required to be more than \$5,000,000, regardless of the seating capacity of the vehicle. Insurance requirements may be met by having Workers' Compensation insurance, a certificate of liability insurance in the seat-based required amount covering transportation of all passengers who are not employees and workers whose transportation is not covered by Workers' Compensation insurance, property damage insurance in the minimum amount of \$50,000 for the property of others, or a general liability policy for the same protection. Also, the grower should be insured, if possible, in the crew leader's insurance certificate. Under the 1996 Adams Fruit Bill, Workers' Compensation is defined as sole relief and workers may not seek additional damage claims against their employer.

Special Consideration: 15-Passenger Vans

These vehicles have seating for a driver and 14 passengers. While widely recognized as "passenger vans," most people don't realize that they started life as cargo vans, which have been equipped with rows of seats. Although likely to have seatbelts, the vehicles lack the many safety features required for buses. In fact, **it is dangerous to use these vehicles as buses.**

Research conducted by the NHTSA has prompted two safety advisory warnings about 15-passenger vans. The advisories primarily are because the risk of a rollover crash is greatly increased when 10 or more people ride in these vehicles. If overloaded the rollover rate is six-to-seven times more likely! Because the vehicle has a high center of gravity, as more passengers are seated the van it becomes less resistant to rollover. Additional weight raises the vehicle's center of gravity and causes it to shift to the rear, making for very dangerous handling, particularly in emergency situations. Placing any load on the roof accentuates the rollover danger. *Because of the rollover characteristics and risk of legal liability, it is becoming increasingly more difficult and costly to insure these vehicles.*

Special Consideration: Wireless Phone Use and Distracted Driving

Drivers who use a cell phone are four times more likely to be in a crash and are responsible for 636,000 crashes and 2,600 deaths each year.

With the growing use of cell phones for business purposes, employers are facing a new emerging threat of vicarious liability for motor vehicle accidents caused by distracted driving of their employees. Two recent court verdicts ruled that employers might be held vicariously liable if they permit employees to use cell phones for business purposes while driving. *Bustos v. Dyke Industries, Inc.* in Dade County, Florida was the first vicarious liability case to bring a verdict for the plaintiff, and jury awarded the plaintiff \$16 million in December 2001.

Employers are encouraged to adopt a "Zero Tolerance Cell Phone Use Policy" preventing employee from using a cell phone or any other wireless device while operating a company motor vehicle.

Appendix:

Driver Recruitment Checklist

Doctor's Certificate

Vehicle Mechanical Inspection Report