

OMB 1215-0158
Supporting Statement
Housing Occupancy Certificate, Migrant and Seasonal Agricultural Worker Protection
Act
Form WH-520

1. Any person who owns or controls a facility or real property to be used for housing migrant agricultural workers cannot permit any such worker to occupy the housing unless a copy of a certificate of occupancy from the state, local, or federal agency that conducted the housing safety and health inspection is posted at the site of the facility or real property. 29 U.S.C. § 1823(b)(1); 29 C.F.R. § 500.135(b). The certificate attests that the facility or real property meets applicable safety and health standards. The housing provider must retain an original copy of the certificate for three years and make it available for inspection. *Id.*
2. Form WH-520 is both an information gathering form and the certificate of occupancy that the Wage and Hour Division (WHD) of the Employment Standards Administration (ESA) of the U.S. Department of Labor (DOL) issues when the WHD is the agency conducting the safety and health inspection. Information collected on Form WH-520 identifies the housing for which certification is being requested; expected occupancy dates and rates; as well as the name(s), address(es) and telephone number(s) of the person(s) who own(s) and/or will control the housing when occupied. WHD staff complete the form based on the applicant's oral responses and an agency conducted on-site inspection of the housing. The WHD determines whether to issue the certificate of occupancy, based on information provided on the form and the inspection. Without this information, it is not possible to ascertain exactly which facility has been inspected and certified as meeting applicable safety and health standards and who is responsible for maintaining those safety and health standards.
3. With respect to the Government Paperwork Elimination Act, no improved information technology exists to provide for electronic submission of the information required to obtain certification. A determination that the housing to be provided meets applicable safety and health standards requires a physical inspection. The WHD makes Form WH-520 available on the agency Web site in PDF fillable format for completion, downloading and printing. See <http://www.dol.gov/esa/forms/whd/wh520.pdf>.
4. Form WH-520 does not duplicate any known information collection efforts. Two other DOL components—the Occupational Safety and Health Administration (OSHA) and Employment and Training Administration (ETA)—also conduct housing inspections. The OSHA only has statutory jurisdiction to inspect housing currently used by workers. Accordingly, the OSHA makes no preoccupancy inspections. The ETA, through state workforce agencies, conducts preoccupancy inspections of housing to assure the housing meets basic federal safety and health standards prior to accepting a job order for recruitment of migrant workers. The WHD accepts these ETA preoccupancy inspections as satisfying MSPA requirements. The WHD also accepts inspections conducted by state

or local government agencies that determine compliance with applicable safety and health standards. However, when requested and there is no other means of obtaining a housing inspection and certification, the WHD will conduct a preoccupancy inspection and issue a Housing Occupancy Certificate. See OSHA, ESA, and ETA agreement on inspections of migrant housing.

For MSPA purposes, the WHD accepts all certifications issued by any federal, state, or local government agency that has conducted an inspection and determined compliance with applicable federal and state health and safety standards and does not require completion of Form WH-520 in such cases.

5. This information collection does not have a significant economic impact on a substantial number of small entities. Respondents include any person who owns or controls a facility or real property to be used for housing migrant agricultural workers. This includes farm labor contractors, agricultural employers (both large and small), agricultural associations and other non-exempt housing providers whose sole link with the workers is to provide housing. The MSPA exempts most commercial housing providers offering to house migrant workers on the same basis as the general public. 29 U.S.C. § 1823(c); 29 C.F.R. § 500.131. Form WH-520 provides a convenient method for a respondent to obtain the housing inspection and certificate of occupancy required by the MSPA.
6. Less frequent collection of data would not permit the annual issuance of a housing occupancy certificate required by the statute and the regulations. While ownership of the housing is generally unchanged over several years, the person recognized as being in control frequently changes from year to year. Moreover, farm labor contractor registration certificates generally are issued for 12-month periods, and those seeking authorization to house workers must be able to show that the prospective housing meets applicable safety and health standards or that a request for inspection has been made.
7. There are no special conditions required in the conduct of this information collection.
8. Contacts with respondents through the certification process have not indicated any substantive problems with providing the information required on Form WH-520.

On December 12, 2007 the DOL published a Federal Register Notice inviting public comment about this information collection (72-70617). The agency received no comments.

9. The DOL offers no payments or gifts made to respondents in connection with this information collection.
10. The DOL provides respondents with no assurance of confidentiality.
11. This collection asks no sensitive questions.

12. The DOL, based on the number of housing certificates issued in Fiscal Years (FYs) 2004-2006, estimates it will annually request approximately 100 respondents to furnish information needed to complete Form WH-520 subsequent to a preoccupancy inspection by the WHD. Based on investigative experience, the DOL estimates that respondents spend an average of three minutes orally providing the information for the WHD to enter on the form. This produces five annual burden hours.

$100 \text{ responses} \times 3 \text{ minutes} / 60 \text{ minutes per hour} = 5 \text{ hours.}$

Based on investigative experience, the DOL estimates the annual recordkeeping and third party disclosure burden for posting and filing of completed Forms WH-520 to be 1.67 hours (rounded to 2 hours – 1 hour for recordkeeping and 1 hour for third party disclosure).

$100 \text{ forms} \times 1 \text{ minute} / 60 \text{ minutes per hour} = 2 \text{ hours (rounded).}$

TOTAL ANNUAL REPORTING AND RECORDKEEPING BURDEN = 7 HOURS

As noted in Item 5, respondents providing information to complete Form WH-520 may be farm labor contractors, agricultural employers, agricultural associations, or other non-exempt housing providers. In the absence of more specific wage data, the DOL has used the May 2005 median wage rate for first-line supervisors/managers of farming, fishing, and forestry workers of \$17.32 an hour to determine respondent costs. Occupational Employment and Wages, May 2005, DOL, Bureau of Labor Statistics, http://stats.bls.gov/news.release/archives/ocwage_05242006.pdf.

TOTAL ANNUAL RESPONDENT COSTS 7 HOURS X \$17.32 = \$121.24.

13. The information requested is very basic and readily known to each respondent. It requires no system or technology; therefore, there are no costs to respondents beyond the value of the respondents' time.
14. The annualized federal cost involves printing and processing the forms. Approximately 100 respondents annually request to receive housing inspections by the WHD and receive authorization to house workers, necessitating the completion of Form WH-520. The DOL prints and processes 100 forms annually.

$100 \text{ forms} \times \$0.03 \text{ per copy} = \$3.00.$

Time spent by GS 12, Step 4 Investigator (Rest of US) to perform the inspection and complete Form WH-520 ($100 \text{ forms} \times \$34.43 \text{ per hour} \times 45 \text{ minutes} / 60 \text{ minutes per hr}$) = \$2582.25.

TOTAL ANNUALIZED FEDERAL COST = \$2582

15. The DOL has decreased the annual burden estimate to seven hours for 100 respondents, down from 20 hours for 300 respondents, based on the actual number of requests for the WHD to provide the housing certification in recent years. The burden estimate per form remains unchanged. The number of inspections requested annually has varied significantly in recent years, ranging from a low of three in FY 2006 to a high of 243 in FY 2004.
16. The DOL does not publish this information.
17. The DOL will display the expiration date for this information collection.
18. The DOL claims no exception to the Paperwork Reduction Act certification.