

SUPPORTING STATEMENT
MOTOR VEHICLE SAFETY FOR TRANSPORTATION OF MIGRANT AND
SEASONAL AGRICULTURAL WORKERS
REGULATIONS 29 C.F.R. § 500.45(b), FORMS WH-514 AND WH-514a AND
REGULATIONS 29 C.F.R. § 500.105(1)(H)-(I), FORM WH-515
OMB CONTROL No. 1235-0017

A. Justification

1. Circumstances Necessitating Information Collection.

Migrant and Seasonal Agricultural Worker Protection Act (MSPA) section 401 (29 U.S.C. § 1841) requires, subject to certain exceptions, all Farm Labor Contractors (FLCs), Agricultural Employers (AGERs), and Agricultural Associations (AGASs) to ensure that any vehicle they use or cause to be used to transport or drive any migrant or seasonal agricultural worker conforms to safety and health standards prescribed by the Secretary of Labor under the MSPA and with other applicable Federal and State safety and health standards. These MSPA safety standards address the vehicle, driver, and insurance.

Consistent with MSPA subsections 401(b)(2)(C)-(D), the U.S. Department of Labor (DOL), Wage and Hour Division (WHD), has issued regulations setting forth the vehicle safety standards that must be met to ensure the safe transportation of migrant/seasonal agricultural workers. See 29 U.S.C. §§ 1841(b)(2)(C)-(D); 29 C.F.R. §§ 500.100-102, 104-105. These regulations (1) issue unique DOL standards for certain types of transportation and (2) adopt U.S. Department of Transportation (DOT) standards for other types of transportation, without regard to the mileage or boundary limitations found at 49 U.S.C. § 31502(c). The regulations require FLCs to submit a mechanical inspection report and a doctor's certificate when they seek authorization to transport migrant/seasonal agricultural workers. 29 C.F.R. § 500.45(b). The regulations also require FLCs, AGERs, AGASs, and Farm Labor Contractor Employees (FLCEs) who drive vehicles transporting migrant/seasonal agricultural workers to maintain a copy of the doctor's certificate. 29 C.F.R. § 500.105(1)(H)-(I).

2. Use

A. General

The WHD has created Forms WH-514, WH-514a, and WH-515, which allow FLC applicants to verify to the WHD that the vehicles used to transport migrant/seasonal agricultural workers meet the MSPA vehicle safety standards and that anyone who drives such workers meets the Act's minimum physical requirements. The WHD uses the information in deciding whether to authorize the FLC/FLCE applicant to transport/drive any migrant/seasonal agricultural workers or to cause such transportation.

B. Vehicle Standards

When the adopted DOT rules apply, FLC applicants use Form WH-514 to verify that any vehicle used or caused to be used to transport any migrant/seasonal agricultural worker(s) meets the DOT safety standards. When the adopted DOT rules do not apply, FLC applicants seeking authorization to transport any migrant/seasonal agricultural workers use Form WH-514a to verify that the vehicles meet DOL safety standards. Upon the vehicle meeting the required safety standards, the form is completed. The FLC applicant then submits the original form to a WHD office. The forms ask for information identifying the carrier, vehicle, inspection station, and inspector. The forms allow for the use of check marks to identify the applicable safety standards met by each vehicle. The FLC applicant need merely identify the State where the inspection was performed, list the appropriate State vehicle safety inspection number and license tag number, and then sign and date the form if (s)he possesses a valid current State vehicle safety inspection sticker from the jurisdiction in which the vehicle is registered. In order to assist the WHD in better determining the adequacy of the vehicle insurance, Forms WH-514 and WH-514a request the “seating capacity” of the vehicles.

C. Driver Standards

Form WH-515 is a doctor’s certificate used to document that a motor vehicle driver or operator meets the minimum DOT physical requirements that the DOL has adopted. Regulations 29 C.F.R. § 500.105(b)(1)(I) specifies the wording of the certification. In accordance with the regulatory provisions, Form WH-515 identifies the driver, whether the driver qualifies under the DOT regulations (with or without glasses), date and place of the examination, as well as the address and signature of both the physician and driver. Drivers must have a copy available whenever they transport workers; and the driver’s employer must retain a copy of the form at their primary place of business. A properly completed Form WH-515 remains valid for 36 months. *See* 29 C.F.R. 500.105(b)(1)(G). Form WH-515 requires respondents merely to identify themselves and check a box as to whether the applicant meets the applicable standards; thus, the form, itself, creates no burden. The regulations do create a recordkeeping burden, as the applicant must maintain it.

3. Technology

In accordance with the Government Paperwork Elimination Act (GPEA), the WHD has posted these forms on the Internet in a PDF, fillable format. Form WH-514, <http://www.dol.gov/whd/forms/wh514.pdf>; Form WH-514a, <http://www.dol.gov/whd/forms/wh514a.pdf>; and Form WH-515, <http://www.dol.gov/whd/forms/wh515.pdf>. The agency has determined that it is not practical to provide an electronic submission option for this information collection. Some 2100 unique FLC/FLCE applicants respond to this information collection to support a request for transportation/driving authorization on their Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificate of Registration, Form WH-530, an information collection cleared under OMB Control Number 1235-0016. An

electronic submission option for Form WH-530 is not practicable, as processing takes place in multiple locations around the country with no centralized clearinghouse for forms. In addition, the agency cannot begin processing the forms until it receives a set of the applicant's fingerprints, when required. Form WH-515 also requires signatures from both the doctor and driver. The multiple signatures create an additional obstacle for an electronic submission option.

4. Duplication

While the DOT and some States require similar vehicle safety inspections and doctor's examinations, they do not register FLC/FLCEs or require submissions about the inspections or examinations; consequently, this information is not available from any other source.

5. Minimizing Small Entity Burden

This information collection does not have a significant economic impact on a substantial number of small entities. Most of the estimated total 2100 respondents are small businesses engaged in agriculture. The DOL has reduced respondent burden where possible. For example, the DOL forms allow for the use of checking boxes to the maximum extent possible. The WHD also accepts a FLC's statement documenting that a vehicle has passed a State inspection to satisfy the MSPA regulatory requirements – as opposed to requiring individual notations of each vehicle part inspected – to minimize the amount of time needed to complete Forms WH-514 and WH-514a. The FLC statement does provide enough information to allow the WHD to verify the claim, when that is warranted.

6. Consequence of Failing to Collect and Obstacles to Reducing Burden

In order to transport migrant and seasonal agricultural workers, the MSPA requires that all vehicles used to transport migrant and seasonal workers conform to certain safety standards. Moreover, the MSPA requires those who drive migrant/seasonal agricultural workers to verify that they are physically fit to do so. The DOL requires this information only from FLC and FLCE applicants seeking authorization to transport/drive any migrant/seasonal agricultural worker(s) or cause such transportation; thus, they typically only need to provide the information only with their WH-530 submission. The WHD would have no way to determine if a vehicle or driver met the MSPA safety requirements, in order for the agency to authorize FLCs and FLCEs to drive migrant/seasonal agricultural workers or cause such transportation, were the agency not to collect this information or collect it less frequently. In accordance with Regulations 29 C.F.R. § 500.7, DOL staff may also examine copies of these forms during MSPA investigations.

7. Special Circumstances

The DOL associates no special circumstances associated with this information collection.

8. Public Comments

The DOL published a Federal Register Notice inviting public comments about this information collection. *See* 75 FR 3758, January 22, 2010. The agency received no comments. In addition, contacts with FLCs and/or FLCEs who respond to this information collection have not indicated any substantive problems or undue burdens.

9. Payment or Gifts to Respondents

The DOL makes no payments or gifts to respondents.

10. Assurances of Confidentiality

The DOL makes no assurances of confidentiality to respondents. As a practical matter, the DOL would only disclose information collected under this request in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. § 552, and the attendant regulations, 29 C.F.R. Part 70, and the Privacy Act, 5 U.S.C. § 552a with its attendant regulations, 29 C.F.R. Part 71.

11. Sensitive Questions

The DOL asks no sensitive questions in this information collection. Form WH-515 requests only an affirmation that the driver meets the health standards (with an option that driver meets the standards only when wearing glasses). When a FLC or FLCE applicant does not meet the qualifications, the information collection does not ask the physician to identify any reason(s) for the determination. Form WH-515 informs respondents that the WHD needs this information to determine if a FLC/FLCE applicant seeking authorization to drive meets the DOT requirements that the DOL has adopted.

12. Estimated Annual Respondent Burden Hours

A. General

- . The DOL has relied on historical data and enforcement in developing the following estimates.

B. Forms WH-514 and WH-514a

The DOL estimates 300 respondents annually complete approximately 1800 Forms WH-514/WH-514a. The DOL further estimates that it takes approximately 5 minutes to complete and file each response, for an annual burden of 150 hours. 1800 responses X 5 minutes = 150 burden hours.

C. Form WH-515

The DOL estimates it receives 2100 Forms WH-515 from an equal number of respondents who would not otherwise get a doctor's certificate under the DOT requirements. The agency also estimates that it takes approximately 5 minutes to file each form, for an annual burden of 15 hours.

2100 responses x 20 minutes = 700 hours (physical examination by physician).

The DOL also estimates it takes one minute to place Form WH-515 in an accessible location.

2100 responses x 1 minute = 35 hours for recordkeeping.

700 Hours Responding + 35 hours recordkeeping = 735 burden hours.

D. Total Hour Burden Costs

150 Hours for Forms WH-514/WH-514a + 735 Hours for Form WH-515 = 885 Burden Hours.

Most respondents are FLC/FLCE applicants, and the DOL, Bureau of Labor Statistics (BLS) has estimated the May 2009 national median hourly wage rate for a FLC to be \$14.62. *See BLS Occupational Employment and Wages, May 2009,* <http://stats.bls.gov/oes/2009/May/oes451012.htm>. The DOL estimates annual respondent costs to be \$12,939.70. 885 annual burden hours x \$14.62 = \$12,939.70.

13. Estimated Annual Respondent Capital/Start-Up/Operation/Maintenance Costs

A. General

Respondents submit Forms WH-514, WH-514a, and WH-515 to supplement their Form WH-530 (the FLC/FLCE registration application). OMB Control Number 1235-0016 applies to Form WH-530, and this information collection does not duplicate costs associated with filing Form WH-530 (e.g., mailing). The DOL associates no capitol or start-up costs with this information collection; however, the agency estimates the following respondent costs for maintenance and operation and the purchase of services related to this collection.

B. Forms WH-514 and WH-514a

This information collection supports an underlying substantive requirement that those who transport any migrant/seasonal agricultural worker(s) do so in vehicles that meet the applicable safety standards; consequently, FLCs have mechanics sign Forms WH-514 or WH-514a to verify the information. The DOL estimates average mechanic costs

associated with completion of each Form WH-514/WH-514a to be \$39.00, for a total operation and maintenance cost of \$81,900. 1800 annual responses x \$39 = \$70,200.

C. Form WH-515

This information collection supports an underlying substantive requirement that those who drive any migrant/seasonal agricultural worker(s) meet the applicable health standards; consequently, respondents take Form WH-515 to their physicians, who mark appropriate the box and sign Form WH-515 to verify the information. The DOL estimates average physician costs associated with completion of each Form WH-515 to be \$69.00, for a total operation and maintenance cost of \$144,900.00. 2100 annual responses x \$69 = 144,900.

D. Total Associated Costs

\$70,200.00 (Forms WH-514/514a) + \$144,900.00 (Form WH-515) = \$ 215,100.

14. Estimated Annual Federal Costs

Federal costs for this information collection involve printing, reviewing, and filing Forms WH-514, WH-514a and WH-515. The DOL accounts for mailing costs in the information collection for Form WH-530. Federal costs are estimated as follows:

Printing 24,000 Forms—\$792.

GS 5, Step 4 mail clerk to insert forms in 8000 Form WH-530 Packages: 1 minute x 8000 packages x \$15.60 per hour (rest of U.S.) = \$2080.

GS 5, Step 4 to review and file forms: 5 minutes x 1980 forms x \$15.60 per hour (rest of U.S.) = \$2574.

TOTAL ESTIMATED ANNUAL FEDERAL COSTS—\$5446.

15. Reasons for Program Changes or Adjustments Affecting Public Burdens

The DOL has not changed the public burden estimates associated with this information collection.

16. Publishing Data From Information Collection

The DOL does not publish this information.

17. Display of OMB Approval Expiration

The DOL does not seek an exception to the requirement to display the expiration date on this information collection. Recently, due to a DOL reorganization, the OMB control

number associated with the information collection changed. The DOL will update the OMB control number shown on these forms upon OMB reauthorization of this information collection.

18. Exceptions to Certification Statement

The DOL is not requesting an exception to any of the certification requirements for this information collection. This request complies with 5 C.F.R. § 1320.9.

B. Employing Statistical Methods

Not applicable.