

SUPPORTING STATEMENT
MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT
29 U.S.C. 1801 et seq., REGULATIONS
OMB CONTROL NO. 1235-0006

Part A Justification

1. *Need*

The Wage and Hour Division of the Department of Labor (DOL), administers the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 et seq. The MSPA protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, disclosures, and recordkeeping. The MSPA also requires farm labor contractors and farm labor contractor employees to register with the U.S. Department of Labor and to obtain special authorization before housing, transporting, or driving covered workers. The MSPA requires that any person owning or controlling any facility or real property to be used for housing migrant agricultural workers shall not permit such housing to be occupied by any worker unless 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 property. The certificate attests that the facility or real property meets applicable safety and health standards. Form WH-520 is an information gathering form.

2. *Use*

Form WH-520 is both an information gathering form and certificate of occupancy that the Wage and Hour Division (WHD) issues when the WHD is the agency conducting the safety and health inspection. Information collected on the WH-520 identifies the housing for which certification is being requested, expected occupancy dates and maximum occupancy rates, the name(s), address(es), and telephone number(s) of the person(s) who own and/or will control the housing when occupied. WHD staff complete the form based on the applicant's oral responses. WHD staff determine whether to issue the certificate of occupancy, based on information provided on the form and the inspection. Without this information, WHD cannot determine which facilities have been inspected and certified as meeting applicable safety and health standards and who is responsible for maintaining those safety and health standards.

3. *Technology*

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/whd/forms/wh520.pdf>.

4. *Duplication*

Form WH-520 does not duplicate any known information collection efforts. Two other DOL components—the Occupational Safety and Health Administration (OSHA) and Employment 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 pre-occupancy inspections. The ETA, through state workforce agencies, conducts pre-occupancy 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 pre-occupancy 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 pre-occupancy inspection and issue a Housing Occupancy Certificate. See OSHA, ESA, and ETA agreement on inspections of migrant housing.

5. *Minimizing burden on small entities*

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. *Consequences of failure to collect*

Less frequent collection of data would not permit the annual issuance of a housing occupancy certificated 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. *Special circumstances*

There are no special conditions required in the conduct of this information collection.

8. *Public comments*

The DOL published notice in the Federal Register to invite public comments about this information collection. See 76 FR 15348-49, March 21, 2011. The agency received no comments in response to this notice. In addition, regular agency contacts with respondents have not indicated the information collection imposes any substantive problems or undue burdens.

9. *Payments or gifts to respondent*

The DOL makes no payments or gifts to respondents in this information collection.

10. *Assurance of confidentiality*

The DOL makes no assurances of confidentiality to respondents.

11. *Questions of a sensitive nature*

There are no questions of a sensitive nature in this collection.

12. *Cost burdens*

The DOL, based on the number of housing certificates issued in Fiscal Years (FYs) 2008-2010, estimates it will annually request approximately 100 respondents to furnish information needed to complete Form WH-520 subsequent to a pre-occupancy inspection by 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

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 forms x 1 minute/60 minutes per hour = 2 hours (rounded).

TOTAL ANNUAL REPORTING AND RECORDKEEPING BURDEN = 7 HOURS

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 2009 median wage rate for first line supervisors/managers of farming, fishing, and forestry workers of \$19.47 per hour to determine respondent costs. Occupational Employment and Wages, May 2009 (released May 14, 2010)
<http://www.bls.gov/news.release/pdf/ocwage.pdf>

TOTAL ANNUAL RESPONDENT COSTS 7 HOURS X 19.47 = \$136 (rounded).

13. *Capital and start-up costs*

The information requested is very basic and readily known to each respondent. It requires no system or technology. There are no costs to respondents beyond the value of respondents' time.

14. *Federal government costs*

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 forms x \$0.03 per copy = \$3.00

Time spent by a GS-12, Step 4 Investigator (Rest of US) to perform the inspection and complete the Form WH-520 (100 forms x \$36.27 per hour x 45 minutes/60 minutes per hour) = \$2720.00

TOTAL ANNUALIZED FEDERAL COST = \$2723.00

15. *Change in burden estimate*

There is no change in burden estimate. The DOL has made a slight modification to Form WH-520 to enhance the public burden statement. The

change merely cites to 29 CFR § 500.135 language regarding the requirement to obtain and post the certificate.

16. *Publication*

DOL does not publish this information.

17. *Display of expiration date*

The DOL will display the expiration date for this information collection.

18. *Exceptions*

No exceptions have been requested.

Part B—Statistical Methods

This information collection does not employ statistical methods.