

SUPPORTING STATEMENT FOR
HOUSING OCCUPANCY CERTIFICATE – MIGRANT AND SEASONAL
AGRICULTURAL WORKER PROTECTION ACT

OMB CONTROL NO. 1235-0006

This ICR seeks an extension without change of a currently approved collection.

Part A: JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Department’s Wage and Hour Division (WHD) administers the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 et seq. MSPA protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, disclosures, and recordkeeping. MSPA also requires farm labor contractors and farm labor contractor employees to register with the Department and to obtain special authorization before housing workers, using a vehicle to transport workers, or driving such vehicles.

Related to this ICR, MSPA requires any person who owns or controls any facility or real property that is used to house migrant agricultural workers to post a copy of the certificate of occupancy at the site of the facility or real property. The certificate attests that a state, local, or federal agency conducted a housing safety and health inspection and verified that the facility or real property meets the applicable safety and health standards. See 29 CFR 500.135. Migrant agricultural workers may not be housed at any facility or real property without such certificate of occupancy. The original certificate must be retained by the person who owns or controls the facility or real property for three years and must be made available for inspection upon the Department’s request. See 29 U.S.C. 1862(a). The Department makes optional form WH-520 available for these purposes.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Form WH-520 is both an information gathering form and certificate of occupancy. WHD issues form WH-520 only when it 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; and 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. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

With respect to the Government Paperwork Elimination Act, the use of information technology systems for electronic submission of the information required to obtain certification is not practicable. A determination that the housing to be provided meets applicable safety and health standards requires a physical inspection; therefore, other technological collection techniques would not reduce the burden on respondents or the Federal Government. Nevertheless, the WHD makes form WH-520 available on the agency website in PDF fillable format for completion, downloading and printing. See <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh520.pdf>.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

Form WH-520 does not duplicate any known information collection efforts. Two other DOL agencies—the Occupational Safety and Health Administration (OSHA) and the Employment and Training Administration (ETA)—also conduct housing inspections. OSHA only has statutory jurisdiction to inspect housing currently used by workers. Accordingly, OSHA does not conduct 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. WHD accepts these ETA pre-occupancy inspections as satisfying MSPA requirements. WHD also accepts inspections conducted by state or local government agencies that determine compliance with applicable safety and health standards. Generally, respondents must first seek certification from the ETA’s workforce agencies or state or local government agencies. WHD will conduct a pre-occupancy inspection and issue a Housing Occupancy Certificate only when respondents cannot secure certification from ETA’s workforce agencies or state or local government agencies. See OSHA, ESA,¹ and ETA agreement on inspections of migrant housing, <https://www.osha.gov/laws-regs/mou/1981-01-19-0>.

- 5. If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.**

¹ On November 2009, the ESA was abolished and the four major program components of ESA – Office of Federal Contract Compliance Programs, Office of Labor Management Standards, Office of Workers’ Compensation Programs and the Wage and Hour Division – became stand-alone programs reporting directly to the Secretary of Labor. Although the agreement was not updated to reflect ESA’s abolishment, WHD stands in its place as its successor.

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 that is 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. MSPA exempts most commercial housing providers offering to house migrant workers on the same basis as the general public. 29 U.S.C. section 1823(c); 29 CFR 500.131. Form WH-520 provides a convenient method for a respondent to obtain the housing inspection and certificate of occupancy required by MSPA.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Less frequent collection of data would not permit the annual issuance of a housing occupancy certificates required by the statute and the regulations. While ownership of the facility or real property may remain unchanged for several years, the person recognized as being in control frequently changes from year to year. Moreover, WHD issues initial farm labor contractor registration certificates 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. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

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

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record-keeping, disclosure, or reporting format (of any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On February 28, 2023, the Department published a notice in the *Federal Register* inviting public comment about this information collection (FR cite). No comments were received. In addition, through the course of doing regular business, the agency did not hear any concerns that the information collection imposes any substantive problems or undue burdens.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

The Department offers no payments or gifts to respondents in connection with this information collection.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a Systems of Records Notice (SORN) or Privacy Impact Assessment (PIA), those should be cited and described here.**

The Department makes no assurances of confidentiality to respondents. As a practical matter, were copies of this information to become part of an investigation file, the Department would only disclose information submitted in connection with a request for records found in MSPA investigation files, including copies or transcriptions of information provided under this information collection, in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; and related regulations, 29 CFR parts 70 and 71.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under “Annual Cost to Federal Government.”**

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden per Response (Hours)	Total Annual Burden (Hours, rounded)	Hourly Wage Rate (loaded)	Monetized Value of Time (rounded)
Furnishing information for Form WH-520 (Reporting)	10	1	10	0.05	0.5	\$45.82	\$22.91

Housing Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act

OMB Control Number: 1235-0006

OMB Expiration Date: 10/31/2023

Posting and Filing Form WH-520 (Third-Party Disclosure & Recordkeeping)	"	"	"	0.01666667	0.17	\$45.82	\$7.79
Totals	10		10	0.06666667	0.67		\$30.70

The Department, based on the number of housing certificates issued in fiscal years (FYs) 2017-2022, estimates it will annually request approximately 10 respondents to furnish information needed to complete form WH-520 subsequent to a pre-occupancy inspection by the WHD. Based on investigative experience, the Department estimates that respondents spend an average of three minutes orally providing the information for the WHD to enter on the form. This produces the annual burden of 0.5 hours.

Annual time burden (reporting): 10 responses × (3 minutes ÷ 60 minutes per hour) = 0.5 hours

Based on investigative experience, the Department estimates that respondents spend an average of one minute posting and filing completed forms WH-520. This produces an annual burden of 0.17 hours for recordkeeping and third-party disclosure.

Annual time burden (recordkeeping): 10 responses × (1 minute to post and file ÷ 60 minutes per hour) = 0.17 hours.

Total annual time burden: 0.67 hours (1 hour rounded)

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 Department has used the May 2021 median wage rate for first line supervisors/managers of farming, fishing, and forestry workers of \$28.28 per hour to determine respondent costs. See Occupational Employment and Wages, May 2021.

<https://www.bls.gov/oes/current/oes451011.htm>. In addition, the Department added 45 percent benefits cost (\$12.73 rounded) and 17 percent overhead cost (\$4.81 rounded) for a loaded wage rate of \$45.82.

Annual cost burden: 0.67 hours × \$45.82 loaded wage rate = \$30.70 (rounded)

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information (Do not include the cost of any hour burden already reflected on the burden worksheet).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to**

estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995; (2) to achieve regulatory compliance with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the government; or (4) as part of customary and usual business or private practices.**

The information requested is basic and readily known to each respondent. It requires no system or technology. There are no costs to respondents beyond the value of the respondents' time accounted for in item 12 above.

14. Provide estimates of annualized costs to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The annualized federal cost involves printing and processing the forms. WHD receives an average of 10 requests for housing inspections annually. Therefore, the Department prints and processes 10 forms annually.

Annual cost to the Federal Government: 10 forms × \$0.04 per copy = \$0.40

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

Using WHD data, the average number of forms processed per year is 10, a reduction from the average of previous years.

Despite an increase in the median wage rate for first line supervisors/managers of farming, fishing, and forestry workers from \$25.25 to \$28.28, the overall burden cost has decreased since the last

extension. The decrease in burden cost is due to a substantial reduction in the number of requests for WHD to conduct housing pre-occupancy inspections over the FY 2017 to FY 2022 period. For similar reasons, the overall burden on the Federal Government also decreased despite the updated cost in copies from \$0.03 to \$0.04 per copy. In addition, there was a decrease because DOL previously included the wages paid to federal employees for processing this ICR. However, such wages do not need to be included because these federal employees processed the ICR incidentally as part of their regular duties. Because the employees do not exclusively work on this ICR, those wages have been removed from the government's cost associated with this ICR.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The Department does not plan to publish results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Department is not requesting an exception to the requirement to display the expiration date on this information collection.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”.

The Department is not requesting an exception to the certification requirements for this information collection.

Part B: EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.