

**SUPPORTING STATEMENT FOR
APPLICATION FOR A FARM LABOR CONTRACTOR OR FARM LABOR
CONTRACTOR EMPLOYEE CERTIFICATE OF REGISTRATION
OMB CONTROL NO. 1235-0016**

The Department of Labor (Department) proposes to revise its information collection request (ICR) related to the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

The Department proposes a substantive change with the proposed debut of the FLCE portal, which will allow respondents to fill out forms WH-530, WH-535, and WH-540 online and submit electronically. Respondents will be able to upload forms WH-514 and WH-514a to the portal as well.

The Department also proposes minor revisions to forms WH-515, WH-530, WH-535, and WH-540. The revisions are:

- WH-515: Revised instructions to clarify that a licensed doctor of medicine or osteopathy may fill out the form.
- WH-530 and WH-535: Adds an optional secondary phone number field, removes the qualifier “optional” from the applicant’s e-mail address field, asks for a preferred method of contact, and requires an employer to attest that they will be acting as a farm labor contractor or farm labor contractor employee. These forms also update the Privacy Act and Paperwork Reduction Act Public Burden Statement.
- WH-540: Requires the name of the certificate holder, adds a box to indicate if the applicant is a firefighter, asks for an e-mail address, phone number, optional secondary phone number and a preferred method of contact. This form also updates the Privacy Act and Paperwork Reduction Act Public Burden Statement.

Forms WH-514 and WH-514a are a part of this ICR, but the Department is not proposing to revise these forms at this time.

The Department submits this ICR as a revision.

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.

MSPA provides that no person shall engage in any farm labor contracting activity for any money or valuable consideration paid or promised to be paid, unless such person has a certificate of registration from the Secretary of Labor specifying which farm labor contracting activities such person is authorized to perform. *See* 29 U.S.C. 1802(7), 1811(a); 29 CFR 500.1(c), 500.20(i),

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500.40. The named MSPA contracting activities include recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker and, with respect to migrant agricultural workers, providing housing. *See* 29 U.S.C. 1802(6); 29 CFR 500.20(j). MSPA also provides that a Farm Labor Contractor (FLC) shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration as a FLC or a certificate of registration as a Farm Labor Contractor Employee (FLCE) of the FLC that authorizes the activity for which such individual is hired, employed, or used. *See* 29 U.S.C. 1811(b); 29 CFR 500.1(c).

MSPA provides that, after appropriate investigation and review, the Secretary will issue a FLC certificate of registration (including a certificate of registration as a FLCE) to any person who has filed with the Secretary a written application containing the following:

- A. a declaration subscribed and sworn to by the applicant stating the applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;
- B. a statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with MSPA safety, insurance, and operator licensing requirements for each such vehicle;
- C. a statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be controlled by the applicant, documentation showing that the applicant is in compliance with MSPA safety and health requirements for each such facility or real property;
- D. a set of the applicant's fingerprints; and
- E. a declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

29 U.S.C. 1812; 29 CFR 500.45.

MSPA regulations at 29 CFR 500.40 and 500.44-.47 set forth the standards that must be met in the application process to obtain a certificate. 29 CFR 500.45 provide for the information collection used to obtain a certificate of registration. Under 29 CFR 500.45, the Department considers the term 'address' to encompass email address. Use of forms WH-530, WH-535, and WH-540 enable an applicant to provide all the information the Department needs to determine whether to authorize the farm labor contracting activities an applicant is seeking authorization to perform under the MSPA.

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-530 provides the means for a FLC applicant to meet the statutory MSPA requirement to file an application with the Secretary containing certain specified information regarding prospective farm labor contracting activities. Form WH-535 provides the means for a FLCE applicant to meet this requirement, and form WH-540 allows registered FLCs and FLCEs to amend a currently existing certificate. Applicants use forms WH-530, WH-535, and WH-540 to obtain authorization to engage in the named MSPA farm labor contracting activities or to obtain authorization to be hired, employed, or used by a currently registered FLC to perform these activities. Applicants will submit the completed forms either to the Wage and Hour Division (WHD) of the Department or a State Workforce Agency Office. *See* 29 CFR 500.44, –.47. Local WHD and State Workforce Agency Offices forward completed applications forms to WHD’s certificate processing office where they are reviewed, and appropriate action (issuance or denial) is taken. *See id.* at § 500.48. All initial certificates are issued for a period of 12 months from the date of issuance unless earlier suspended or revoked. *Id.* § 500.50(a)(1). Renewal certificates may be issued for a period of up to 24 months if the applicant has not been cited for a MSPA violation (or its attendant regulations) within the preceding five years from the expiration date shown on their current certificate. *Id.* at § 500.50(b)(2)–(3).

WHD uses forms WH-514, WH-514a, and WH-515 to 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. 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. The WH-514 and WH-514a (vehicle inspection forms) are valid for one year, and the WH-515 (doctor’s certificate) is valid for 3 years.

Vehicle Standards

When the adopted Department of Transportation (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 that the vehicles meet DOL safety standards. The form is completed when the applicant lists identifying vehicle information and an independent mechanic attests that the vehicle meets the required safety standards. The FLC applicant then submits the original form to the WHD certificate processing 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 identifies the state where the inspection was performed, lists the appropriate state vehicle safety inspection number and license tag number, and then signs and dates the form if they possess a valid current state vehicle safety inspection sticker from the jurisdiction in which

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the vehicle is registered. To assist WHD in better determining the adequacy of the vehicle insurance, forms WH-514 and WH-514a request the “seating capacity” of the vehicles.

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 Department has adopted. 29 CFR 500.105(b)(1)(ii)(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 CFR 500.105(b)(1)(ii)(G). Form WH-515 requires respondents 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 create a recordkeeping burden, as the applicant must maintain from WH-515.

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.

The Department has proposed a portal for electronic submission of forms WH-530, WH-535, and WH-540, though it anticipates that some of the submissions will continue to be mailed in. This portal will permit the respondent to fill out the form and submit it directly to the Department.

The portal will also allow forms WH-514, WH-514a, and WH-515 to be uploaded and submitted electronically to the Department. These forms cannot be filled out online because they require multiple signatures, which creates an obstacle for electronic submission. As with forms WH-530, WH-535, and WH-540, respondents may also continue to mail in the completed forms to the Department.

Submission of a photocopy of the application form is sufficient to satisfy the regulatory requirements, so long as it contains an original signature in the appropriate places. Pursuant to the Government Paperwork Elimination Act (GPEA), the Department has posted the current forms in a fillable format on the WHD Website for downloading and printing.

In accordance with the GPEA, the WHD has posted these forms on the internet in a PDF, fillable format:

Form WH-514: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh514.pdf>

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Form WH514a: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh514a.pdf>

Form WH-515: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh515.pdf>

Form WH-530: <https://www.dol.gov/sites/dolgov/files/WHD/mspa/wh530.pdf>

Form WH-535: <https://www.dol.gov/sites/dolgov/files/WHD/mspa/wh535.pdf>

Form WH-540: <https://www.dol.gov/sites/dolgov/files/WHD/mspa/wh540.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 A.2 above.

This program is unique to WHD and does not duplicate other information collection requirements. Similar information is not available from any other source.

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

WH-530, WH-535, and WH-540:

This information collection does not have a significant economic impact on a substantial number of small entities. Although this information collection involves small farm labor contracting businesses engaged in agriculture, forms WH-530, WH-535, and WH-540 provide the means to provide the information needed to obtain or amend a certificate to perform farm labor contracting activities under MSPA.

WH-514, WH-514A, and WH-515:

This information collection does not have a significant economic impact on a substantial number of small entities. The Department has reduced respondent burden where possible, including adding the FLCE portal for ease of submission. For example, the forms allow for the use of checking boxes to the maximum extent possible. To minimize the amount of time needed to complete forms WH-514 and WH-514a, 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. The FLC statement provides enough information for WHD to verify the claim when warranted.

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.

WH-530, WH-535, and WH-540:

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In order to engage in farm labor contracting activities, MSPA requires that a FLC or FLCE be registered with the Department and carry the certificate of registration. An applicant files form WH-530 (for an FLC) or form WH-535 (for an FLCE) with WHD to obtain the certificate. The applicant files a WH-540 to amend an existing certificate. WHD needs all information requested to determine whether an applicant meets the MSPA requirements to obtain a FLC or FLCE registration. Collecting information less frequently than at times of initial registration, renewal, or amendment of a certificate would prevent WHD from determining whether to issue or deny a certificate authorizing the applicant as a FLC or FLCE. However, the Department has reduced respondent burden where possible, including adding the FLCE portal for ease of submission.

WH-514, WH-514A, and WH-515:

In order to transport migrant and seasonal agricultural workers, MSPA requires that all vehicles used to transport migrant and seasonal workers conform to certain safety standards. MSPA requires those who drive migrant/seasonal agricultural workers to verify that they are physically fit to do so. The Department 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 with their WH-530 or WH-535 submissions. Were the agency not to collect this information or collect it less frequently, WHD would have no way to determine if a vehicle or driver meets the MSPA safety requirements to authorize FLCs and FLCEs to drive migrant/seasonal agricultural workers or cause such transportation. In accordance with 29 CFR 500.7, WHD staff may also examine copies of these forms during a MSPA investigation.

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 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 secret, 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 circumstances associated with the conduct of these information collections.

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 recordkeeping, disclosure, or reporting format (if 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.

WHD consulted with three internal and external representatives to the agency involved in requesting forms WH-514/a, WH-515, WH-530, WH-535, WH-540. The consultation asked WHD contacts for their feedback on burden estimates for information collection activities associated with requesting the aforementioned forms. None of the three representatives had any changes or comments on the estimated burden, so WHD is proceeding with the initial estimates published in the 60-day notice. The individuals/organizations consulted about the information collection are listed in the table below.

Table 1: List of Internal and External Representatives

Contact	Organization	Email	Phone
Adriana xxx	Relation Insurance Services	xxx	xxx
Amparo xxx	Arizona Department of Economic Security	xxx	xxx
Shea xxx	Florida Department of	xxx	xxx

Contact	Organization	Email	Phone
	Business and Professional Regulation		

Note: For privacy reasons, we are not disclosing the emails and phone numbers of contacts.

The Department also published a notice in the *Federal Register* on February 14, 2024 (89 FR 11319), inviting public comments on the proposed revision of the information collection. The Department received one comment, from Texas RioGrande Legal Aid, in response to the 30-day notice which suggested specific, technical changes to the forms. The issues raised in the comment are discussed below, along with the Department’s responses to those issues.

Unemployment Insurance Reporting Number

The commenter recommends that the proposed form include a field to collect the applicant’s state unemployment insurance reporting number. The Department declines to adopt this suggested change, as state unemployment compensation programs are beyond the scope of the Department’s enforcement authority under MSPA.

Section 6 of Forms WH-530 and WH-535

The commenter suggests that the Department edit Item 6 of forms WH-530 and WH-535 to ask applicants to identify specific items that would preclude them from being issued a certificate of registration. Specifically, the commenter states that the Department should require applicants to disclose the following information:

- all past violations of MSPA resulting from the Department’s investigation(s) and/or any unpaid MSPA monetary judgments against them.
- whether any member of the applicant’s immediate family has been refused issuance of a certificate or has had a certificate suspended or revoked. The commenter further suggests that, if the applicant discloses that a member of the applicant’s immediate family is ineligible for a certificate, the applicant should attest that the ineligible family member is not the real party in interest.

The Department declines to adopt these suggestions. The Department checks WHD’s internal database for unpaid back wages and civil money penalties and encourages farmworkers and legal aid organizations to notify the agency if a MSPA civil judgment remains unpaid in a private lawsuit so that appropriate action may be taken. The Department may refuse to issue or revoke a certificate of registration when there is an unpaid court judgment under MSPA obtained by the Secretary of Labor or any other person or when there is a failure to comply with any final order issued by the Secretary of Labor.

Additionally, the activity of “fronting,” *i.e.*, obtaining a certificate on behalf of an ineligible family member or friend, is itself an inherently dishonest activity. Applicants are already

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required to identify the applicant who will be performing the farm labor contracting activities and affirm that all representations in the application are truthful. The collection of additional information and signing of an additional attestation is unlikely to result in truthful responses because the entire application submitted by an individual engaged in “fronting” is already untruthful. In an investigation, the Department determines whether the applicant is the real party of interest or is “fronting” for an individual who is ineligible for a certificate. The Department may refuse to issue or revoke a certificate of registration when the applicant is not the real party in interest and the real party in interest is ineligible to hold a certificate. The Department encourages farmworkers and legal aid organizations to notify the agency if a farm labor contractor appears to have engaged in “fronting” on behalf of an ineligible family member or acquaintance.

Section 9 of Proposed Form WH-530 and Section 7 of Proposed Form WH-540

The commenter suggests that revisions to Forms WH-530 and WH-540 are insufficient to address the problem of workers’ compensation insurance not covering all circumstances of transportation, particularly if the workers’ compensation is furnished by professional employment organizations (PEOs). The commenter also suggests that, if the applicant is using workers’ compensation insurance to obtain authorization, the Department should require the disclosure of the insured entity and, if the insured entity is not the applicant, the contract between the insured company and the applicant to determine if any gaps in insurance coverage exist.

The Department agrees that workers’ compensation insurance that insufficiently covers all transportation is a common problem in the industry. However, the issue is not limited to PEOs; rather, the question as to whether workers’ compensation insurance covers all transportation depends on a multitude of factors, including state laws, the purpose and/or destination of the transportation, and the relationship of the policy-holding entity to the workers at the time of transport (in addition to those issues the commenter identified with respect to PEOs).

The Department declines to adopt the commenter’s specific suggestions with respect to workers’ compensation and PEOs but has previously included other revisions that address the commenter’s concerns. Specifically, the Department revised the WH-530 to require the applicant, if using workers’ compensation in lieu of vehicle insurance, to disclose on the form the circumstances in which the applicant will transport workers. Additionally, the proposed form requires that an applicant using workers’ compensation instead of vehicle insurance attest that it has truthfully listed all circumstances of transportation and that these circumstances are covered by workers’ compensation under applicable State law.

9. Explain any decision to provide any payments or gifts 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.

The Department makes no assurances of confidentiality to respondents. As a practical matter, the Department would only disclose information collected under these requests in accordance with the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552; and the attendant regulations, [29 CFR part 70](#), and the Privacy Act, 5 U.S.C. 552a; and related regulations, [29 CFR part 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.

WH-530, WH-535, and WH-540:

The Department collects the applicant's Social Security Number (on forms WH-530, WH-535, and, in some circumstances, WH-540) to identify applicants and to run the required background check. The Department needs to be able to identify the applicant specifically and ensure the applicant and registration submitter or holder are the same person. Additionally, WHD runs a background check on each applicant to ensure that they have not been convicted of certain named crimes within the preceding five years that would prevent them from obtaining a certificate of registration. See 29 U.S.C. 1813 and 29 CFR 500.51. The social security number is essential for running this background check. The applicant is required by statute to submit fingerprints with the application and does so on form FD-258 (A Department of Justice form, <https://www.edo.cjis.gov/artifacts/standard-fingerprint-form-fd-258-1.pdf>), which also collects the social security number. See 29 U.S.C. 1812 and 29 CFR 500.45(d). Forms WH-530, WH-535, and WH-540 each contain a Privacy Act notice.

WH-514, WH-514A, and WH-515:

The Department 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 the 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 advises respondents this information to determine if a FLC/FLCE applicant seeking authorization to drive meets the DOT requirements that the Department has adopted.

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.

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 in Item 14.

The Department uses the May 2023 national median hourly wage rate for FLCs of \$24.71 to estimate the value of respondent's time. See DOL, Bureau of Labor Statistics (BLS), Occupational Employment Statistics Survey, (<https://www.bls.gov/oes/current/oes131074.htm>). The hourly wage rate also includes a 45% benefits cost and a 17% overhead cost. This hourly wage rate applies for all the forms listed.

$$\$24.71 \times 1 = \$24.71.$$

$$\$24.71 \times 45\% = \$11.12 \text{ (rounded).}$$

$$\$24.71 \times 17\% = \$4.20 \text{ (rounded).}$$

$$\text{Hourly Wage Rate: } \$24.71 + \$11.12 + \$4.20 = \$40.03$$

A. Forms WH-514 and WH-514a

The Department uses the actual submissions of forms WH-514 and WH-514a in the below calculations.

Respondents: 1,891

Responses: 25,237

The Department estimates that it takes approximately 5 minutes to complete and file each form.

Burden hours: 25,237 responses $\times$ 5 minutes per response $\div$ 60 minutes = 2,103 hours (rounded)

The total hourly wage rate for respondents is \$40.03.

Burden-hours cost: 2,103 burden hours $\times$ \$40.03 = \$84,183.09

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B. Form WH-515

In 2023, the Department received 6,630 WH-515 forms from an equal number of respondents who would not otherwise get a doctor's certificate under the DOT requirements.

Respondents: 6,630

Responses: 6,630 respondents $\times$ 1 form = 6,630

The Department estimates it takes a doctor 20 minutes to complete the form and takes an employer approximately 6 minutes to file each form, which is 26 minutes per response.

Burden hours: 6,630 $\times$ 26 minutes per response $\div$ 60 minutes = 2,873 hours.

The total hourly wage rate for respondents is \$40.03.

Burden-hours cost: 2,873 burden hours $\times$ \$40.93 = \$115,006.19.

C. Form WH-530

Annually 6,475 respondents complete form WH-530 to apply for an FLC certificate of registration.

Respondents: 6,475

Responses: 6,475 respondents $\times$ 1 form = 6,475

The Department also estimates it takes an average of 30 minutes to complete the form, either via paper or electronically.

Burden Hours: 6,475 respondents $\times$ 30 minutes per response $\div$ 60 minutes = 3,238 hours (rounded).

The total hourly wage rate for respondents is \$40.03.

Burden-hours cost: 3,238 burden hours $\times$ \$40.03 = \$129,617.14

D. Form WH-535

Annually 14,393 respondents complete form WH-535 to apply for an FLCE certificate of registration.

Respondents: 14,393

Responses: 14,393 respondents $\times$ 1 form = 14,393

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The Department estimates it takes an average of 30 minutes to complete the form, either via paper or electronically.

Burden Hours: $14,393 \text{ respondents} \times 30 \text{ minutes per response} \div 60 \text{ minutes} = 7,197 \text{ hours}$ (rounded)

The total hourly wage rate for respondents is \$40.03.

Burden-hours cost: $7,197 \text{ burden hours} \times \$40.03 = \$288,095.91$

E. Form WH-540: Amendment Application

The Department estimates annually 5,835 respondents complete form WH-540 to amend a currently existing certificate.

Respondents: 5,835

Responses: $5,835 \text{ respondents} \times 1 \text{ form} = 5,835$

The Department estimates it takes an average of 30 minutes to complete the form, either via paper or electronically.

Burden Hours: $5,835 \text{ respondents} \times 30 \text{ minutes per response} \div 60 \text{ minutes} = 2,918 \text{ hours.}$

The total hourly wage rate for respondents is \$40.03.

Burden-hours cost: $2,918 \text{ burden hours} \times \$40.03 = \$116,787.53.$

F. Total Burden-hours Costs

Forms WH-514/WH-514a = \$84,183.09

Form WH-515 = \$115,006.19

Form WH-530 = \$129,617.14

Form WH-535 = \$288,095.91

Form WH-540 = \$116,787.53

Total: = \$733,689.86

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
WH-514/ WH-514a	1,891	13.346	25,237	0.083	2,103	\$40.03	\$84,183.09
WH-515	6,630	1	6,630	0.433	2,873	\$40.03	\$115,006.19
WH-530	6,475	1	6,475	0.5	3,238	\$40.03	\$129,617.14
WH-535	14,393	1	14,393	0.5	7,197	\$40.03	\$288,095.91
WH-540	5,835	1	5,835	0.5	2,918	\$40.03	\$116,787.53
Unduplicated TOTAL	35,224		58,570		18,329	\$40.03	\$733,689.86

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- 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 service 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 collection 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 Department associates no capital 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.

A. 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 form WH-514 or WH-514a to verify the information.

The Department estimates that respondents will be charged for one hour of auto mechanics' time to verify the form. The Department uses the May 2023 national median hourly wage rate of \$22.96 for auto mechanics to estimate the cost of verifying the information. See DOL, Bureau of Labor Statistics (BLS), Occupational Employment Statistics Survey, (<https://www.bls.gov/oes/current/oes493023.htm>). The hourly wage rate also includes a 45% benefits cost and a 17% overhead cost. This hourly wage rate applies for all the forms listed.

$$\text{\$22.96} \times 1 = \text{\$22.96}$$

$$\text{\$22.96} \times 45\% = \text{\$10.33 (rounded).}$$

$$\text{\$22.96} \times 17\% = \text{\$3.90 (rounded).}$$

$$\textbf{Hourly Wage Rate: } \text{\$22.96} + \text{\$10.33} + \text{\$3.90} = \text{\$37.19.}$$

$$\textbf{25,237 annual responses} \times \text{\$37.19} = \text{\$938,564.03.}$$

Of the 25,237 WH-514 and WH-514a applications completed annually, 10% of those, or 2,523.70, are estimated to be completed via mail which is 50% less than the 2021 paperwork package, due to the new FLCE portal. The remainder of the applications are either submitted in person or electronically, via the platform. The cost of sending a 9"×12" envelope with 2 pages is

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used for the approximate weight of an application packet. The cost of sending such a packet from Washington, DC to San Francisco using first class mail is \$1.63 (as of May 2024).

$2,523.70 \text{ applications} \times \$1.67 (\$1.63 \text{ postage} + \$0.04 \text{ per envelope}) = \$4,214.58 \text{ (rounded)}.$

Total WH-514 and WH-514a Startup/Maintenance Cost = \$938,564.03 + \$4,214.58 = \$942,778.61.

B. Forms 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 the appropriate box and sign form WH-515 to verify the information.

The Department estimates that respondents will be charged for half an hour of a doctor's time to verify the form. The Department uses the May 2023 national median hourly wage rate of \$107.36 for general internal medicine physicians to estimate the cost of verifying the information. See DOL, Bureau of Labor Statistics (BLS), Occupational Employment Statistics Survey, (<https://www.bls.gov/oes/current/oes291216.htm>). The hourly wage rate also includes a 45% benefits cost and a 17% overhead cost. This hourly wage rate applies for all the forms listed.

$\$107.36 \times 1 = \107.36

$\$107.36 \times 45\% = \48.31 (rounded)

$\$107.36 \times 17\% = \18.25 (rounded)

Hourly Wage Rate: $\$107.36 + \$48.31 + \$18.25 = \173.92

$6,630 \text{ annual responses} \times \$173.92 \times 0.5 \text{ hours} = \$576,544.80.$

Of the 6,630 WH-515 applications completed annually, 10% of those, or 663, are estimated to be completed via mail which is 50% less than the 2021 paperwork package, due to the new FLCE portal. The remainder of the applications are either submitted in person or electronically, via the platform. The cost of sending a 9"×12" envelope with 2 pages is used for the approximate weight of an application packet. The cost of sending such a packet from Washington, DC to San Francisco using first class mail is \$1.63 (as of May 2024).

$663 \text{ applications} \times \$1.67 (\$1.63 \text{ postage} + \$0.04 \text{ per envelope}) = \$1,107.21.$

Total WH-515 Startup/Maintenance Cost = \$576,544.80 + \$1,107.21 = \$577,652.01.

C. Form WH-530

Approximately 6,475 WH-530 applications are completed annually, and approximately 10% of those, or 647.50, are estimated to be completed via mail, which is 50% less than the 2021

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paperwork package, due to the new FLCE portal. The remainder of the applications are either submitted in person or electronically, via the platform. The cost of sending a 9"×12" envelope with 6 pages is used for the approximate weight of an application packet. The cost of sending such a packet from Washington, DC to San Francisco using first class mail is \$1.63 (as of May 2024).

647.50 applications × \$1.67 (\$1.63 postage + \$0.04 per envelope) = \$1,081.33 (rounded).

D. Form WH-535

Roughly 14,393 WH-535 applications are completed annually, and approximately 10% of those, or 1,439.30, are estimated to be completed via mail, which is 50% less than the 2021 paperwork package, due to the new FLCE portal. The remainder of the applications are either submitted in person or electronically, via the platform. The cost of sending a 9"×12" envelope with 3 pages is used for the approximate weight of an application packet. The cost of sending such a packet from Washington, DC to San Francisco using first class mail is \$1.63 (as of May 2024).

1,439.30 applications × \$1.67 (\$1.63 postage + \$0.04 per envelope) = \$2,403.63 (rounded).

E. Form WH-540

Roughly 5,835 WH-540 applications are completed annually, and approximately 10% of those, or 583.50, are estimated to be completed via mail, which is 50% less than the 2021 paperwork package, due to the new FLCE portal. The remainder of the applications are submitted in person or electronically, via the platform. The cost of sending a 9"×12" envelope with 5 pages is used for the approximate weight of an application packet. The cost of sending such a packet from Washington, DC to San Francisco using first class mail is \$1.63 (as of May 2024).

583.50 applications × \$1.67 (\$1.63 postage + \$0.04 per envelope) = \$974.45 (rounded).

F. Total Associated Costs

Forms WH-514/WH-514a = \$942,778.61

Form WH-515 = \$577,652.01

Form WH-530 = \$1,081.33

Form WH-535 = \$2,403.63

Form WH-540 = \$974.45

Total: = \$1,524,890.02

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14. Provide estimates of the annualized cost 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), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The annualized federal cost involves printing, mailing, and processing the forms. WHD field offices and state workforce agency offices maintain the forms for distribution. 58,570 total forms are filed annually (25,237 WH-514s; 6,630 WH-515s; 6,475 WH-530s; 14,393 WH-535s; and 5,835 WH-540s).

The Department estimates that the majority of the forms are produced and distributed by state workforce agencies and farm labor contractors. The rest, about 10%, are produced and distributed by WHD.

$$58,570 \times 10\% = 5,857 \text{ forms.}$$

Of those 5,857 forms, the Department estimates that 60% involve mailing and postage costs.

$$5,857 \times 60\% = 3,514 \text{ forms (rounded)}$$

The Department estimates that it costs \$0.03 to print each of the forms being mailed, and an additional cost of \$0.04 per envelope and \$0.68 for a first-class stamp, as of May 2024.

$$\$0.03 + \$0.04 + \$0.68 = \$0.75$$

$$3,514 \times \$0.75 = \$2,635.50.$$

WHD processes applications in the San Jose/San Francisco/Oakland office and used 2024 OPM wages for that region: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/SF_h.pdf. GS-5, Step 4 employees mail the forms and it is estimated that mailing time is 5 minutes per form. In addition, there is a 45% benefit cost and 17% overhead cost to the hourly wage.

$$\$25.96 \times 1 = \$25.96$$

$$\$25.96 \times 45\% = \$11.68 \text{ (rounded).}$$

$$\$25.96 \times 17\% = \$4.41 \text{ (rounded).}$$

$$\text{GS-5, Step 4 wage: } \$25.96 + \$11.68 + \$4.41 = \$42.05.$$

GS-5, Step 4 mail clerk to mail forms:

$$\text{Total Cost: } 3,514 \times 5 \text{ minutes per form} \div 60 \text{ minutes} \times \$42.05 \text{ per hour} = \$12,313.64 \text{ (rounded).}$$

WHD processes applications in the San Jose/San Francisco/Oakland office and used 2024 OPM wages for that region: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>

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[salary-tables/pdf/2024/SF h.pdf](#). GS 7. Step 4 employees review the forms and it is estimated that review time is 15 minutes per form. In addition, there is a 45% benefit cost and 17% overhead cost to the hourly wage.

$\$32.16 \times 1 = \32.16

$\$32.16 \times 45\% = \14.47 (rounded).

$\$32.16 \times 17\% = \5.47 (rounded).

GS-7, Step 4 wage: $\$32.16 + \$14.47 + \$5.47 = \52.10

GS-7, Step 4 clerk to review completed forms:

Total Cost: $58,570 \times 15 \text{ minutes per form} \div 60 \text{ minutes} \times \$52.10 \text{ per hour} = \$762,874.25$.

TOTAL ANNUAL FEDERAL COST

Postage = \$2,635.50

Mail Clerk = \$12,313.64

Review Clerk = \$762,874.25

Total = \$777,823.39 (or \$777,823 rounded)

15. Explain the reasons for any program changes or adjustments.

The Department proposes to debut an online platform to reduce mailing costs for respondents, however, there was an increase in wages for FLCs and FLCEs, as well as postage costs, that offset that reduction in costs. In addition, the Department was able to use number of responses from 2023 instead of estimates, which affected the cost. Lastly, the amount of time it would take to fill out WH-540 increased, which resulted in greater costs.

16. For collections of information whose results will be published, outline plans for tabulations, 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 will not publish the results of these information collections.

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 does not seek an exception to the requirement to display the expiration date for OMB approval of these information collections.

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18. Explain each exception to the certification statement.

The Department is not requesting an exception to any of the certification requirements for these
information collections.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This information collection does not employ statistical methods.