

SOUTHERN MIGRANT LEGAL SERVICES

A PROJECT OF TEXAS RIOGRANDE LEGAL AID, INC.
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September 25, 2026

Via e-mail to WHDPRAComments@dol.gov

Daniel Navarette, Director
Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Ave., N.W.
Washington, D.C. 20210

**RE: Control Number 1235-0005
Information Collection – Housing Occupancy Certificates Under the Migrant
and Seasonal Agricultural Worker Protection Act
91 Fed. Reg. 46,969 (July 27, 2026)**

Dear Mr. Navarette:

These comments are submitted on behalf of Texas RioGrande Legal Aid (“TRLA”) in response to the Department of Labor’s request contained in a notice entitled “Agency Information Collection Activities; Comment Request; Information Collection – Housing Occupancy Certificates under the Migrant and Seasonal Agricultural Worker Protection Act,” published at 91 Fed. Reg. 46,969 (July 27, 2026).

TRLA provides free legal assistance in civil matters to farmworkers in Texas and, through its Southern Migrant Legal Services project, six southeastern states (Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee). A sizeable portion of our practice consists of representing migrant and seasonal agricultural workers in asserting and enforcing their rights under the Fair Labor Standards Act (“FLSA”) and/or the Migrant and Seasonal Agricultural Worker Protection Act (“MSPA”). TRLA has represented migrant farmworkers in employment matters for more than half a century. We also represent many H-2A workers who are furnished housing by their employers pursuant to federal regulations, 20 C.F.R. § 655.122(d).

We support the continued collection of information through the use of Form WH-520, the optional housing certificate used under the MSPA. Although its use is optional, Form WH-520 serves valuable purposes for both the residents of the housing and the government officials charged with inspecting the facilities.

In enacting the MSPA in 1982, Congress emphasized that the new law's housing requirements were intended to address "the deplorable conditions in which migrant workers are often housed" and, accordingly, the Act's housing provisions were to "be interpreted with the broadest possible meaning to ensure that the person who owns or control the facility ... is responsible for maintaining that facility."¹ For the first time, the MSPA required the vast majority of facilities used to accommodate migrant agricultural workers be inspected preoccupancy for compliance with federal and state safety and health standards.² Housing providers were obligated by the MSPA to post a copy of the inspecting agency's certification, thereby allowing the occupants to verify that the facility had been inspected and determined to have satisfied applicable safety and health provisions.³

When the MSPA was enacted in 1982, it was widely assumed that state agencies, such as health departments, would be primarily responsible for conducting the preoccupancy inspections required by Section 203(b) of the new statute.⁴ For this reason, the statute only refers to preoccupancy inspections by State and local health authorities.⁵ The recent exponential growth in H-2A applications, which also require preoccupancy housing inspections,⁶ has substantially increased the number of farmworker facilities needing to be inspected and certified each year.

State agencies that regulate all farmworker housing usually have their own forms indicating that housing has been certified and permitted, meaning there is little need to resort to use of Form WH-520. However, even to this day, only about one-third of the states inspect and regulate farmworker housing and authorize their inspection. In many instances, and especially with regard to housing utilized by H-2A employers, the responsibility for conducting preoccupancy inspections has been assigned to state workforce agencies (SWAs). Unlike those state agencies that regularly inspect and permit farmworker housing, many SWAs lack their own internal

¹ House Report 97-885, at 17, *reprinted at* 1982 U.S. Code Congressional and Administrative News 4547, 4563.

² Section 203(a), 29 U.S.C. § 1823(a).

³ The MSPA requires agricultural employers farm labor contractors that provide housing to migrant workers to post the terms and conditions of occupancy. 29 U.S.C. § 1821(c) and 29 C.F.R. § 500.135. However, these posting provisions do not mandate disclosure of information as to whether a facility has been certified as meeting safety and health requirements, information occupants can only learn through the posting of the certification itself.

⁴ Codified at 29 U.S.C. § 1823(b)(1).

⁵ MSPA regulations allow preoccupancy inspections to be performed by federal, as well as state and local, agencies. 29 C.F.R. § 500.135(a).

⁶ 20 C.F.R. § 655.122(d)(ii).

certification forms and instead rely on Form WH-520 to certify compliance with Federal and state housing requirements.

There is a long history of farmworkers being housed in overcrowded and seriously substandard accommodations.⁷ A properly-completed Form-520 provide important information to migrant workers residing in employment-related housing.

Among other things, Form WH-520 includes the actual physical address and location of the facility.⁸ This information is vital when farmworkers need to request assistance for medical emergencies, to report crimes, or to request an investigation by the Department. The WH-520 also discloses the name and address of the owner of the housing, and not just the person in charge, information needed if a non-owner in charge of the facility is unable or unwilling to address concern of the occupants regarding conditions in the housing.⁹ The Form WH-520 states the maximum occupancy of the unit, so that the occupants themselves can determine if the facility is crowded beyond legal limits and, if so, seek assistance from the Department's Wage and Hour Division, the SWA, health department and other public officials, and nonprofit service organizations. Finally, Form WH-520 confirms to the occupant that the facility was in fact inspected and certified as meeting applicable health and safety standards; the absence of the WH-520 or an equivalent document issued by another governmental entity provides the farmworker with a basis for requesting an investigation of the situation, particularly if unsafe or unhealthy conditions are present.

We appreciate the opportunity to provide comments on the Department's data collection through use of Form WH-520.

Sincerely,

TEXAS RIOGRANDE LEGAL AID, INC.

By: /s/ Gregory S. Schell

Gregory S. Schell

Attorney

⁷ See, e.g., *Medina Arreguin v. Sanchez*, 398 F. Supp. 2d 1314, 1325 (S.D. Ga. 2019); *Renteria-Marin v. Ag-Mart Produce, Inc.*, 488 F. Supp. 2d 1197, 1207–08 (M.D. Fla. 2007); *Avila v. A. Sam & Sons*, 856 F. Supp. 763, 768 (W.D.N.Y. 1994); *Frenel v. Freezeland Orchard Co., Inc.*, 1987 WL 46894, at *1 (E.D. Va. 1987); *Beliz v. W.H. McLeod & Sons Packing Co.*, 765 F.2d 1317, 1321 (5th Cir. 1985).

⁸ By contrast, Form WH-521, used to satisfy the posting requirements of MSPA Section 201(c), only requires disclosure of the mailing address of the housing, which may be a post office box rather than a physical address.

⁹ Form WH-521 includes only the name and address of the individual in charge of the housing, and not that of the owner.