

I. Update on housing inspections for H-2A Job Orders

In many cases, in-person housing inspections have been temporarily suspended. For the time being, housing will be inspected via the new virtual inspection process.

For housing for 5 or more workers, please note that this inspection is for the purposes of the H-2A program only. You will still need to work with the DOH, when available, to ensure that your migrant farmworker housing is permitted per NYSDOH Part 15 requirements.

To complete the virtual inspection process, employers must submit requested photos, a signed attestation form (provided by our staff), well water test results, if applicable, and any other documentation that the FLCU deems necessary for review (for example, measurements may be requested in some cases, to determine square footage).

The virtual inspections should be completed with the understanding that the FLCU will follow-up with in-person inspections when needed, and particularly for any new housing.

Please reach out to the Foreign Labor Certification Unit with any questions:

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II. Basic Housing Requirements: Information for new H-2A Employers

Regulations

Regulations Applied: Either ETA or OSHA regulations will be applied, depending on the year that the housing was constructed. Housing constructed before April 1980 will have ETA regulations applied. Housing constructed after 1980 will have OSHA regulations applied.

Sleeping Space

Square footage requirements: In sleeping rooms, either worker must have 50 square feet of space. If bunk beds are used, under ETA regulations, workers must have 40 square feet of space. In both instances, ceiling height must be at least 7 feet.

Windows: Each sleeping room must have an openable window. The size of the window must be at least 10% of the room's square footage.

Beds and bedding: Each worker must be provided with a bed and bedding. The bed must be on a bedframe, raised from the floor. The bed and bedding must be clean and comfortable.

Storage: A reasonable amount of storage space (closets, dressers, etc) must be provided for each worker.

Egress: Under ETA regulations, any sleeping space on the second floor must have a secondary means of egress. This may be in the form of a secondary stairway, an escape ladder with a sufficient sized window, or a sufficient sized window alone if the drop to the ground is less than 14 feet.

Gender Separation: Should both male and female workers be living in the housing, separate bathroom bedrooms be provided for each gender. Each bedroom must have working locks on the doors for privacy.

Kitchen and Cooking Facilities:

Facilities: Provided that the employer is not providing all meals to the workers, a kitchen and cooking facilities must be available.

Utilities: A stove and refrigerator, in good working order, clean, and of sufficient size for number of workers, must be provided.

Cookware and Dining Items: All reasonable items needed for cooking and eating should be provided: pots, pans, utensils, flatware, cutlery, etc.

Safety: All kitchens must be equipped with a smoke detector, fire extinguisher, and CO detector (if applicable). All items must be current and in good working order. Flammable items should not be stored near sources of heat. Keeping a first aid kit in the kitchen is a good idea.

Bathroom Facilities

Facilities: Workers must be provided with functional and clean bathroom facilities with clean and working toilet, sink, and shower/bath; with hot and cold water under pressure.

Gender Separation: Should both male and female workers be living in the housing, separate bathroom facilities must be provided for each gender. Each bathroom must be labeled "male" or "female" and have working locks on the doors for privacy.

Common/Dining Area

Facilities: Each housing unit must have a common/dining area where workers may congregate to eat their meals, etc. A dining table and chairs must be provided.

General Safety

First Aid Kit: Each housing unit must have a complete first aid kit, with the basic items for general illness/wound care available. Make sure the items are not expired and that the kit is well-stocked. Good places to store the first aid kit are in the kitchen and the bathroom. Having two is not a bad idea!

Smoke and CO Detectors: All smoke and CO detectors must be functional, not disabled, and kept in good repair. Detectors should be placed, at minimum, in the kitchens and in the sleeping areas.

Fire extinguisher: A properly charged and inspected fire extinguisher must be provided. One should be kept in the kitchen; keeping additional extinguishers elsewhere is a good practice.

General Housing

Screening: All windows and exterior openings (including doors) must be screened.

Site: Exterior of the housing must be well-maintained, site must be clear of debris.

Utilities: Housing must have all necessary utilities functional, including heat, electricity, and hot and cold water under pressure

Water Source: Housing that uses well water must have water tested by an ELAP certified lab: <https://apps.health.ny.gov/pubdoh/applinks/wc/elappublicweb/>

Laundry Facilities: Laundry facilities must be provided on-site.

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