WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Fact Sheet #26G: H-2A Housing Standards for Rental and Public Accommodations

November 2022

On April 29, 2024, The U.S. Department of Labor published a final rule, "Improving Protections for Workers in Temporary Agricultural Employment in the United States" Further information on the final rule is found here.

This Fact Sheet provides general information about the housing safety and health standards that apply to rental and public accommodations used by employers to house workers under H-2A temporary labor certifications approved on or after November 14, 2022.

Introduction

The Immigration and Nationality Act (INA) authorizes the lawful admission of temporary, nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature when the employer demonstrates that there are not sufficient workers who are able, willing, qualified, and available, and that the employment of the H-2A workers will not adversely affect the wages and working conditions of workers similarly employed in the U.S. As part of the recruitment process, the H-2A employer must submit information for the publication and circulation of a job order, which is the document containing the material condition of employment. The Department of Labor's (DOL) regulations governing the H-2A visa program also apply to the employment of other workers by the H-2A employer to perform any work included in the job order that was approved by DOL's Employment and Training Administration (ETA) or any agricultural work performed by the H-2A workers during the period of employment stated on the job order. These other workers are engaged in corresponding employment.

Information about other H-2A requirements can be found in Fact Sheets #26, #26A, #26B, #26C, #26D, #26E, #26F and #26G.

Housing Obligations

H-2A employers must provide housing at no cost to H-2A workers and to those workers in corresponding employment who are not reasonably able to return to their residence within the same day. H-2A employers may house workers in temporary labor camps that they own or control, or they may use rental or public accommodations, such as hotels or motels. See WHD's Housing Safety and Health Standards Checklists for the Occupational Safety and Health Act (OSHA) standards and for the Employment and Training Administration (ETA) standar to learn more about the housing standards that apply to temporary labor camps under the H-2A program.

H-2A employers that use hotels, motels, or other similar public accommodations to house workers must ensure that those accommodation meet certain essential health and safety concerns, summarized below. Where local health and safety standards for rental and/or public accommodations exist, all of those local standards will apply. If, however, the local standards do not address any one or more of these essential concerns, then any state standards addressing those concerns will apply on that issue. If neither local nor state standards address any one or more of these essential concerns, then the relevant OSHA standards that pertain to those concerns will apply.

Example: If an employer houses workers in a motel located in a county with a local code that addresses all but one of the listed health and safety concerns, such as a minimum square footage requirement, then all of the standards in the local code apply to the motel. Since the local code has no minimum number of square feet per occupant, the State standard for the minimum number of square feet per occupant, if

Submit Feedback

any, applies to the housing as well. If the State has no standard for the minimum number of square feet per occupant, then the OSHA standard applies.

Health or Safety Concerns That Must Be Addressed

Unless the following essential health and safety concerns are addressed by applicable local or state health and safety standards, the indicated federal DOL OSHA standards will apply to rental and public accommodations used to house workers under the H-2A program. The employer is responsible for compliance with all the applicable standards, including those that require cleaning.

- **Square Footage and Storage Facilities**
  - Each room where workers sleep must contain at least **50 square feet** per person. Ceilings must be at least **7 feet high**. (29 CFR 1910.142(b)(2))
  - Each room where workers sleep must have beds, cots, or bunks, as well as **storage facilities** such as wall lockers for clothing and personal items. Beds or similar facilities must be at least **36 inches apart**, both side-to-side and end-to-end, and must be at least **12 inches off the floor**. If double-deck bunkbeds are used, they must be at least **48 inches apart**, both side-to-side and end-to-end. Minimum clearance between the lower and upper bunk must be at least **27 inches**. Triple-deck bunks are prohibited. (29 CFR 1910.142(b)(3))
  - At least **100 square feet per person** must be provided in a room where workers **cook, live, and sleep**. (29 CFR 1910.142(b)(9))
- **Sufficient and Sanitary Cooking and Kitchen Facilities**
  When an H-2A employer using rental or public accommodations chooses to meet its meal obligations by providing free and convenient cooking and kitchen facilities to workers, the following concerns must be addressed:
  - Where stoves are shared, they must be provided in a ratio of at least **one stove per 10 persons** or one stove per two families. Sanitary facilities must be provided for storing and preparing food. (29 CFR 1910.142(b)(10))
- **Heating, Cooking and Water Heating Equipment**
  - All heating, cooking, and water heating equipment must be installed in accordance with State and local ordinances, codes, and regulations. If the housing is used during cold weather, **adequate heating equipment must be provided**. (29 CFR 1910.142(b)(11))
  - An **adequate and convenient water supply**, approved by the appropriate health authority, must be provided in each housing location for drinking, cooking, bathing, and laundry purposes. (29 CFR 1910.142(c)(1))
  - A water supply is considered adequate if it can deliver **35 gallons per person per day** to the housing location at a peak rate of 2 1/2 times the average demand required each hour of the day. (29 CFR 1910.142(c)(2))
  - The distribution lines must be able to supply water at **normal operating pressures to all fixtures when operated at the same time**. (29 CFR 1910.142(c)(3))
  - **One or more drinking fountains must be provided for every 100 occupants**. If the number of occupants is between 101 to 200, an additional drinking fountain is required, and so on. Common drinking cups are prohibited. (29 CFR 1910.142(c)(4))
- **Adequate and Sanitary Toilet, Laundry, Handwashing, and Bathing Facilities**
  - **Toilet facilities adequate for the capacity of the housing facility must be provided**. (29 CFR 1910.142(d)(1))
  - An **adequate supply of toilet paper** must be provided in each bathroom. (29 CFR 1910.142(d)(9))
  - Bathrooms must be kept in a **sanitary condition** and must be cleaned at least daily. (29 CFR 1910.142(d)(10))
  - Laundry, handwashing, and bathing facilities must be provided in the following ratio: one handwashing sink per family or **one per six persons** in shared facilities; **one shower head for every 10 persons; one laundry facility for each 30 persons**. (29 CFR 1910.142(f)(1))
  - Bathroom floors must be of smooth finish but not slippery materials; they must be waterproof. Floor drains must be provided in all shower baths, shower rooms, or laundry rooms. (29 CFR 1910.142(f)(2))
  - An adequate supply of **hot and cold running water** must be provided for bathing and laundry purposes. (29 CFR 1910.142(f)(3))
  - Every service building must be provided with equipment capable of **maintaining a temperature of at least 70 degrees Fahrenheit** during cold weather. (29 CFR 1910.142(f)(4))
  - Facilities for **drying clothes** must be provided. (29 CFR 1910.142(f)(5))
  - All service buildings must be kept clean. (29 CFR 1910.142(f)(6))
- **Sufficient Lighting**

Submit Feedback

  - Where electricity is available, each habitable room must be provided with at least **one ceiling-type light fixture** and at least **one separate floor- or wall-type convenience outlet**. Laundry and toilet rooms and rooms where people congregate must contain at least one ceiling- or wall-type light fixture. Light levels in toilet and storage rooms must be at least 20 foot-candles 30 inches from the floor. In other rooms, including kitchens and living quarters, light levels must be at least 30 foot-candles 30 inches from the floor. (29 CFR 1910.142(g))
- **Refuse disposal**
  - Garbage containers must be kept clean. (29 CFR 1910.142(h)(2))
  - Garbage containers must be **emptied when full, and at least twice a week**. (29 CFR 1910.142(h)(3))
  - Effective measures must be taken to **prevent animals, insect vectors, and pests from residing in or infesting the facility**. (29 CFR 1910.142(j))

Submit Feedback

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.dol.gov/agencies/whd and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Submit Feedback