

H-2A Program Employee Housing Inspection

Frequently Asked Questions

1. Why is the responsibility to complete the housing inspections shifting to California Department of Housing and Community Development (HCD)?

HCD is the Employee Housing Act authority under the California Health and Safety Code Section 1700 et seq. As the H-2A Program significantly increased over the last few years, HCD and EDD collaborated to streamline the process and avoid duplication of inspections. Effective May 15, 2018, HCD will assume responsibility for inspections of facilities housing five or more employees. EDD will continue with responsibility to inspect facilities for four or less employees.

2. Who is responsible for the inspection H-2A housing for five or more employees?

To ensure occupant health, safety, and general welfare, the HCD's Employee Housing Program oversees construction, maintenance, use, and occupancy of privately owned-and-operated employee housing facilities sheltering **five or more** employees.

3. What are the provisions in the H-2A Regulations regarding housing inspections?

Provisions for housing under the H-2A Program are found in the Code of Federal Regulations (Title 20 CFR Section 655.122 [d] [i] [ii]) state employers must provide housing that meets local, state, or federal required standards. In the absence of applicable local standards, State standards will apply. In the absence of applicable local or State standards, Department of Labor's, Occupational Safety and health Administration standards at 29 CFR 1910.142 will apply. HCD's authority in California is established by California Health and Safety Code Section 17002. The EDD will continue to inspect housing provided to four or less employees.

4. Are housing inspections required for the approval of an Agricultural and Food Processing Clearance Order ETA Form 790?

Yes. Federal regulations require that prior to the issuance of Agricultural and Food Processing Clearance Order; housing facilities meet all established standards (Title 20 CFR 655.121, and Title 20 CFR 653.501 [3]).

5. What are the fees associated with Housing Inspections with HCD?

Housing and Community Development Fee Chart		
Permit To Operate	Re-inspection	Amended Permit
Issuance \$200	First Hour \$178	Issuance \$20
Employee/Lot \$27	Subsequent Hours \$82	Additional Employee \$27
Applicant Verification \$13	30 Minutes/Fraction \$41	

Source: HCD 204 Form. Fees are informational as of March 2018. Contact HCD Employee Housing Program to determine current applicable fees at 1-916-445-9471 or 1-800-952-8356.

6. What are the timelines to provide EDD with the housing permit to operate?

To comply with H-2A regulations, the Employee Housing Act requires that the HCD inspect employee housing facilities within 45 days following receipt of a Permit to Operate (PTO) application. Timelines may conflict depending on the HCD’s inspection schedule. To avoid delays in the application process, employers should secure a valid PTO before submitting an Agricultural and Food Processing Clearance Order (ETA form 790) to the EDD. An employer must provide a PTO to the EDD more than 32 days before employees may occupy provided housing or the contracted start date. Employers are encouraged to contact HCD early and establish sufficient lead time to secure a timely PTO.

7. Who should contact HCD to schedule housing inspections?

H-2A employers are responsible for contacting HCD to request a timely PTO and schedule needed housing inspections. Employers can contact HCD staff person, Shasta Sanborn at 1-916-263-3271 with any questions about the Employee Housing PTO application process.

8. Can an employer use an existing Permit to Operate?

Yes. An employer may use an existing PTO if it covers the employment period and the capacity for the new Agricultural and Food Processing Clearance order. Employers submitting existing PTOs for use with other Agricultural and Food Processing Clearance Orders must carefully observe the employment period and maximum total capacity of the permit. If the PTO needs to be amended, the employer must contact HCD for any changes necessary for compliance, otherwise the EDD will not accept the PTO.

9. I have provided a Permit to Operate that will cover the employment period and capacity for all my current Agricultural and Food Processing Clearance Orders. Do I need to send it every time I submit a new application?

Yes. The EDD does not use records from previous applications to establish housing compliance for new applications. Therefore, all employers housing five or more employees are required to provide a valid and current PTO for each new application (job order). Employer-provided housing for each **new application** must be cleared by the EDD and reported to Department of Labor before final certification.

10. Will the EDD continue housing inspections for four or less employees?

Yes. The EDD will inspect housing for each new Agricultural and Food Processing Clearance Order (ETA Form 790) received for four or less employees.

Additional Resources

For additional information on related programs, forms, and services, please visit:

- HCD's Employee Housing Program at www.hcd.ca.gov/building-standards/employee-housing/index.shtml
- H-2A Program at www.foreignlaborcert.doleta.gov/h-2a.cfm

Contact Information

For more information on EDD's H-2A Foreign Labor Certification, email WSBCalh2a@edd.ca.gov or call 1-916-654-7799.