

FOREIGN LABOR CERTIFICATION

HOUSING INSPECTIONS

Virtual

Federal Authority – Emergency Situations Only

Where physical housing inspections cannot reasonably be performed, such as during Federal Emergency Management Agency-declared emergencies due to Acts of God or other pandemic health emergencies, the State Workforce Agency (SWA) maintains written procedures on alternative methods that may be employed, on a temporary basis, to verify that housing meets all applicable standards. The SWA agrees to retain all documentation and records demonstrating compliance and will promptly make such information available to the Department of Labor Certifying Officer upon request.

Implementation

The following procedures apply when the SWA implements virtual housing inspections under the above authority:

- Virtual inspections may be conducted only during the period of a declared emergency that prevents reasonable in-person inspection. All virtual inspections must verify that employer-provided housing meets applicable federal and state H-2A housing standards.
- The SWA will retain all documentation supporting the virtual inspection, including materials sufficient to demonstrate compliance with housing standards. Documentation will be maintained in accordance with record retention requirements and made available to the CO of the U.S. Department of Labor upon request.

Virtual inspections conducted under emergency authority do not waive the SWA's ability to conduct a subsequent in-person inspection when conditions permit.

In-Person

Requirements

An in-person inspection is required in the following circumstances:

- **New H-2A Employer:** The employer has not previously submitted an H-2A application to the SWA.
- **New Housing Location:** The housing unit or facility has not been previously inspected by the SWA.
- **Prior Wage and Hour Enforcement Action:** The employer has been cited by the U.S. Department of Labor Wage and Hour Division for housing-related violations and assessed civil money penalties.

The SWA reserves the right to require an in-person inspection at its discretion when concerns arise regarding housing safety, compliance history, or adequacy of documentation submitted during a virtual inspection.

JOB ORDERS

Information on job orders for the H-2A and H-2B programs can be found in Job Orders [Policy 8.5](#).

Instructions on how to create an SDWORKS Employer account and post job orders can be found in SDWORKS Employer Accounts [Resource 30](#).