



## Revision and Agricultural Labor Housing Rules Explanation of Rulemaking, Final Action Table of Contents

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## Executive summary

The Oregon Occupational Safety and Health Division (Oregon OSHA) is adopting substantive amendments to its Agricultural Labor Housing (ALH) rule (OAR 437-004-1120) to improve conditions in employer-provided housing statewide, when such housing is tied to employment. This document provides a history of the rulemaking, as well as the rationale and an explanation for decisions on what was ultimately adopted.

In 2018, Oregon OSHA initiated a comprehensive review of its ALH rule, working with a diverse advisory group, including growers, agricultural associations, housing operators, and worker advocates. In this rulemaking process, the agency also proposed to amend references to its Labor Housing rule (OAR 437-002-0142) to align with the proposed changes to the ALH rule. The Division 2 Labor Housing rule follows the requirements of the Division 4 ALH rule, with some exceptions, to establish standards for labor housing in general industry, construction, and forest activities.

After nearly six years of stakeholder meetings, Oregon OSHA filed its proposed rules with the Oregon Secretary of State on Sept. 5, 2024. After proposal, the agency held five public hearings (two in Spanish) and received 264 public comments through Nov. 3, 2024. Oregon OSHA reviewed and considered all comments submitted during the public comment period and made certain modifications to the proposed rule before adoption.

This rulemaking encompasses significant modifications across multiple domains of agricultural labor housing. Physical infrastructure requirements will be substantially improved, including enhanced standards for living spaces, cooking facilities, sanitation, and personal storage. Notably, this rulemaking includes an increase to the square-footage requirements in sleeping rooms from 40 to 50 square feet per occupant when bunk beds are used, requires specific kitchen and laundry configurations, and establishes more rigorous occupational health and safety requirements for water testing, toilet facilities, and heat illness prevention.

In recognition of the infrastructure and operational challenges to be faced by some agricultural employers, the implementation timeline adopted in the final rule includes delayed effective dates extending from March 31, 2025, to January 2028. This approach balances worker protection with practical implementation considerations, ensuring that both small and large agricultural operations can adapt to the new standards. Based on the delayed effective dates in the adopted rule, the previous rule requirements will remain in place through March 30, 2025, unless otherwise stated in the rule.

This rulemaking represents a comprehensive, multi-year effort to modernize Oregon OSHA's agricultural labor housing standards, addressing long-standing concerns about worker living conditions while maintaining practical implementation strategies. By aligning state requirements with federal standards and incorporating stakeholder feedback, Oregon OSHA has developed a balanced regulatory framework that prioritizes occupational safety and health for occupants of employer-provided housing.

## Federal and state regulatory framework

Federal and state regulation of ALH have evolved over time in response to changing agricultural techniques and labor conditions nationwide and in Oregon. With Congress' adoption of the Occupational Safety and Health Act of 1970 (OSH Act), ALH became subject to the jurisdiction of federal OSHA, which subsequently set minimum federal compliance requirements for employer provided housing.

In 1973, the Oregon Legislature enacted the Oregon Safe Employment Act, which established Oregon OSHA and set the foundation for Oregon to adopt a "state plan." State plans are federal OSHA-approved workplace safety and health programs operated by individual states or U.S. territories. To gain and maintain approval, state plans must adopt and enforce compliance standards that are "at least as effective" (ALAE) as federal OSHA. In accordance with this ALAE requirement, Oregon OSHA is required to maintain and enforce Rules for Agricultural Labor Housing and Related Facilities (OAR 437-004-1120) that federal OSHA has determined to be ALAE as its housing requirements (29 CFR 1910.142). With each adopted rule, Oregon OSHA is evaluated against the federal standard to ensure that it remains ALAE.

To that end, Section 18 of the federal OSH Act (29 U.S.C. 667) outlines the approval process for OSHA state plans, including Oregon OSHA. This federal approval process occurs in stages, beginning with initial approval under 18(c) of the OSH Act. If, after a period of no less than three years following initial approval, the U.S. Department of Labor's assistant secretary for Occupational Safety and Health determines that the state plan has satisfied and continues to meet all criteria in section 18(e) of the OSH Act, the U.S. assistant secretary may make an affirmative determination under section 18(e) of the OSH Act, which results in the relinquishment of concurrent federal authority in the state with respect to occupational safety and health issues covered by the state plan (29 U.S.C. 667(e)). Procedures for section 18(e) determinations are found in 29 CFR part 1902, subpart D. In general, to be granted final approval, actual operation of the occupational safety and health plan by the state must be ALAE as the federal OSHA programs in all areas covered under the state plan.

Oregon's state plan, which is administered by Oregon OSHA, a division of the Oregon Department of Consumer and Business Services, received its initial federal approval on Dec. 28, 1972 (37 FR 28628). On Jan. 23, 1975, federal OSHA and the State of Oregon entered into an operational status agreement (OSA), which suspended the exercise of concurrent federal authority in Oregon in all except specifically identified areas (40 FR 18427). On Dec. 16, 2004, federal OSHA published a notification (69 FR 75436) that the Oregon state plan was eligible for a determination as to whether final approval of the plan should be granted under section 18(e) of the OSH Act for all issues covered by the state plan, with the exception of temporary labor camps in agriculture, general industry, construction, and logging. The notification stated that the issue of temporary labor camps (i.e., agricultural labor housing) was being excluded from final approval at that time pending resolution of federal OSHA's concerns regarding the effectiveness of Oregon for ALH in OAR 437-004-1120. After allowing for a period of public comment, the assistant secretary subsequently granted the Oregon state plan

final approval on May 12, 2005, with respect to all issues covered by the plan, except temporary labor camps (70 FR 24947).

Oregon OSHA initiated rulemaking related to OAR 437-004-1120 via Administrative Orders 4-2008 and 2009, which both became effective Jan. 1, 2018, to bring OAR 437-004-1120 at least as effective as federal requirements. In August 2018, Oregon OSHA requested that federal OSHA review its state plan approval status based on the effective date of the revised standard.

On March 13, 2023, federal OSHA published in the Federal Register a notice announcing the Oregon state plan's eligibility for a final approval determination under section 18(e) as to temporary labor camps in agriculture, general industry, construction, and logging (88 FR 15458). The March 13, 2023, notice invited interested people to submit written comments regarding the Oregon state plan and whether final approval over temporary labor camps should be granted. An opportunity to request an informal public hearing by the same date was also provided. To help and encourage public participation in the 18(e) determination, a summary of the March 13, 2023, notice, with an invitation for public comments, was published in the Oregon Bulletin on April 1, 2023.

Based on that record, and for the reasons described in further detail in the proposal (88 FR 15460-61), the assistant secretary determined that Oregon's occupational safety and health program managed by Oregon OSHA, pertaining to temporary labor camps in agriculture, general industry, construction, and logging, was at least as effective as the federal program in actual operations in providing safe and healthful employment and places of employment and met the criteria for final state plan approval in section 18(e) of the OSH Act. Accordingly, under section 18(e) of the act, the exception to the Oregon state plan's final approval for temporary labor camps in agriculture, general industry, construction, and logging was thereafter removed, effective Aug. 30, 2023.<sup>1</sup>

### *Oregon OSHA requirements for ALH*

As discussed further below, Oregon OSHA's ALH rule applies to any place where there are living areas or other housing provided by someone who recruits individuals to work on an agricultural establishment. With few exceptions, all employer-provided housing is required to meet the requirements in OAR 437-004-1120. Historically, only housing for workers who produce or harvest farm crops must be registered with Oregon OSHA, except when the housing is occupied solely by members of the same family or by five or fewer unrelated people.

Oregon OSHA's ALH rule is rooted in safety and health considerations and has broad housing site requirements pertaining to many issues, including, but not limited to:

- Living and sleeping area requirements for square footage per person, beds, windows, doors and screens, fire protection, safe exits, emergency plans, first aid, and disease reporting.

<sup>1</sup> FR Doc No: 2023-18717: <https://www.osha.gov/laws-regs/federalregister/2023-08-30-0>

- Infrastructure requirements for electricity, drainage, and potable water supply.
- Adequate ratios for the number of toilets, sinks, bathing facilities, and laundry amenities based on the number of occupants.
- Requirements for proper waste disposal; storage of hazardous chemicals and toxic materials; and the maintenance of grass, weeds, and brush to minimize fire danger.
- Climate control requirements for safe heating systems and cooling areas.
- Requirements for common-use cooking and eating facilities, including dining halls and individual kitchens. This includes separation from sleeping areas, ratios of cooktops or stoves per occupant, prep areas, refrigerators, tables, and chairs.

In accordance with the ALAE requirement, Oregon OSHA maintains and enforces Rules for Agricultural Labor Housing and Related Facilities (OAR 437-004-1120) that federal OSHA has determined to be at least as effective as its housing requirements (29 CFR 1910.142).<sup>2</sup> Nothing in federal statute prevents Oregon OSHA from adopting and enforcing ALH standards that are more stringent or protective than federal OSHA standards. However, there are a few notable differences between federal OSHA and Oregon OSHA standards that this rulemaking is seeking to align.

<sup>2</sup> <https://www.osha.gov/laws-regs/federalregister/2023-08-30-0>

## Application of statutory requirements

This rulemaking falls within Oregon OSHA's statutory authority, and Oregon OSHA has fulfilled its related obligations under the Oregon Safe Employment Act (OSEA)<sup>3</sup> and the Administrative Procedures Act (APA).<sup>4</sup>

### Summary of Oregon OSHA's Statutory Authority and Obligations under the OSEA

The purpose of the Oregon Safe Employment Act (OSEA) and rules adopted by Oregon OSHA under that law is found in ORS 654.003, which describes the law's general purpose as:

*...to assure as far as possible safe and healthful working conditions for every working person in Oregon, to preserve our human resources and to reduce the substantial burden, in terms of lost production, wage loss, medical expenses, disability compensation payments and human suffering, that is created by occupational injury and disease.*

In discussing that purpose, ORS 654.003(3) states that one of the Legislative Assembly's intents is to "authorize the Director of the Department of Consumer and Business Services and the designees of the director to set reasonable, mandatory, occupational safety and health standards for all employments and places of employment."<sup>5</sup>

This general statement about rulemaking is further amplified by ORS 654.035(1), which indicates that the director may:

- (a) *Declare and prescribe what devices, safeguards or other means of protection and what methods, processes or work practices are well adapted to render every employment and place of employment safe and healthful.*
- (b) *Fix reasonable standards and prescribe and enforce reasonable orders for the adoption, installation, use and maintenance of devices, safeguards and other means of protection, and of methods, processes and work practices ...as may be necessary to carry out all laws relative to the protection of the life, safety and health of employees.*
- (c) *Fix and order reasonable standards for the construction, repair and maintenance of places of employment and equipment that will render them safe and healthful.*
- (d) *Fix standards for routine, periodic or area inspections of places of employment.....*
- (e) *Require the performance of any other act that the protection of the life, safety and health of employees in employments and places of employment may demand.*

<sup>3</sup> ORS 654

<sup>4</sup> ORS 183

<sup>5</sup> The Director has, in turn, used the authority of ORS 654.025(2) and (5) to delegate the authority to implement and enforce the Oregon Safe Employment Act (OSEA) to the Administrator of the Occupational Safety and Health Division (Oregon OSHA) and has specifically delegated the rulemaking authority under the OSEA to the Oregon OSHA Administrator.



The current rule explicitly addresses “safe and healthful working conditions,”<sup>6</sup> and it represents Oregon OSHA’s determination of appropriate “safeguards or other means of protection...well adapted to render...safe and healthful”<sup>7</sup> the affected workplaces and employer-provided housing facilities. The rule provides direction concerning “safeguards and other means of protection, and of methods, processes and work practices”<sup>8</sup> that Oregon OSHA has determined to be necessary to the protection of worker life and health. The rule also requires the performance of several acts Oregon OSHA has deemed to be demanded by “the protection of the life, safety and health of employees in the workplace.”<sup>9</sup>

The Oregon Legislature adopted statutes specifically directing the regulation and registration of farmworker camps in ORS 658.705 to 658.850. These statutes give the authority to the director of the Department of Consumer and Business Services to regulate farmworker camps and registration. Specifically, ORS 658.755(1)(b)-(c) requires that:

- (1) Every farmworker camp operator shall:*
  - ...(b) Comply with ORS chapter 654 and the administrative rules of the Department of Consumer and Business Services adopted pursuant to ORS chapter 654.*
  - (c) Comply with all applicable building codes and health and safety laws....*

## Summary of Administrative Procedures Act (APA) Requirements

The rulemaking provisions of the Oregon Administrative Procedures Act<sup>10</sup> include a number of provisions related to public notice and comment periods. The agency acted in full compliance with all timeline and notice requirements in the APA and held five public hearings on the following dates and times:

- Oct. 17, 2024, 1 p.m.
- Oct. 17, 2024, 6 p.m.
- Oct. 18, 2024, 11 a.m. (Spanish)
- Oct. 21, 2024, 6 p.m. (Spanish)
- Oct. 25, 2024, 10 a.m.

The law both encourages and, in some respects, requires that affected stakeholders be involved in the development of proposed rules. This rulemaking is the product of discussions with stakeholders that began in 2018 when a rulemaking advisory group began meeting to discuss changes to the ALH rule.

<sup>6</sup> ORS 654.003

<sup>7</sup> ORS 654.035(1)(a)

<sup>8</sup> ORS 654.035(1)(b)

<sup>9</sup> ORS 654.035(1)(e)

<sup>10</sup> ORS 183.325 to 405

One comment was received regarding the adequacy of the racial equity impact statement. Specifically, it was alleged that the statement failed to comply as it did not describe “the potential disparate health effects that the state’s predominately nonwhite farmworker population may experience if Oregon OSHA continues its unlawful ‘shelter in place’ rule.”<sup>11</sup>

Although there is no case law on the new racial equity impact statement requirement for rulemaking under ORS 183.335(2)(b)(F), other requirements under ORS 183.335(2)(b), including the statement of need and fiscal impact statement, have been evaluated. A recent case dealing with those requirements is *City of Cornelius v. DLCD*, 331 Or. App. 349, 546 P.3d 923, *rev den* (2024). In that case, municipalities challenged essentially every section of the rulemaking notice. In its decision, the court described that the purpose of ORS 183.335 (2)(b) is to provide sufficient detail so that people can tell if their interest is affected, with the standard of review being substantial compliance. A notice is sufficient, according to *Cornelius*, if it identifies “which entities are to be affected,” and what the effect might be, to the extent that it’s known. Oregon OSHA’s racial equity impact statement meets that bar.

The statement recognizes the groups that will be directly impacted by the rules and says what the effect of the rule on those groups might be, to the extent it is known. Specifically, the statement provides that:

*Oregon OSHA acknowledges that Latinx, Indigenous, Asian, Pacific Islander, Black, and other communities of color make up the majority of Oregon’s agricultural workforce, putting them at a disproportionate risk of working and living in unsafe, unhealthy, and unsanitary conditions. This rule seeks to strengthen worker protections in employer-provided housing, providing a safe and healthy place to rest and sleep so they can adequately recover, especially from labor intensive working conditions in agricultural settings.*

Thus, the statement complies by providing a “statement identifying how adoption of the rule will affect racial equity in this state.”

<sup>11</sup> D-141

## History of the current rulemaking

During rulemaking in 2018 on the Application Exclusion Zone (AEZ), housing-related discussions were a focal point and the need to revisit the current ALH rules became apparent. Oregon OSHA committed at that time to a separate, comprehensive review of the ALH rules and convened a rulemaking advisory group (RAG) to review the ALH rules and discuss potential changes.

The RAG consisted of growers, employer representatives, agricultural associations, housing operators, and worker representatives, as well as agency personnel. While the COVID-19 pandemic delayed rulemaking activities during 2020, Oregon OSHA resumed RAG meetings in 2021. It is worth noting that Oregon OSHA did not limit participation on the RAG as this allowed for more active participation across different interested parties and, therefore, membership expanded and contracted over the rulemaking timeline.

The RAG continued to meet regularly from 2021 through 2023 to discuss potential amendments to existing rule provisions. Four RAG meetings were held in 2024 with the assistance of a mediation team (Six Rivers).<sup>12</sup> During these discussions, Oregon OSHA shared preliminary drafts with the RAG and received implementation cost estimates from growers, which included construction costs. This information was posted on the division's website for public review.

In August 2024, Oregon OSHA appointed a fiscal impact advisory committee (FIAC) comprised of five grower representatives, five worker representatives, and one neutral chairperson. The purpose of the FIAC was to provide a recommendation to Oregon OSHA regarding the fiscal impact of the rule changes that were intended to be proposed. The FIAC met on four occasions, concluding with a final approval of the Fiscal Impact Statement that was utilized during the rule proposal process.<sup>13</sup>

During the rulemaking process, Oregon OSHA also announced that the proposed rule changes would be part of a comprehensive package of program enhancements aimed at protecting agricultural workers and their families and boosting employer compliance. In addition to the proposed rule changes, Oregon OSHA plans to:

- Provide technical assistance to support the Oregon Department of Agriculture in providing \$5 million in grant funds to registered operators for existing on-farm housing compliance with the rule change and support additional funding for infrastructure improvements once the existing grant funding is exhausted.
- Develop a new, annual self-certification requirement for employers that includes required statements and mandatory documentation – including photos, videos, or other evidence – of continued compliance for certain rule provisions. This would be pursued through a budget proposal during the 2025 legislative session. If approved, it would

<sup>12</sup> Six Rivers Dispute Resolution Center

<sup>13</sup> <https://osha.oregon.gov/rules/advisory/alh/Documents/alh-FIAC-fiscal-impact-with-comments-2024-09-03.pdf>

complement future enhancements to the registration system by including more detailed information about each location's amenities. Oregon OSHA would conduct a rulemaking to add the self-certification requirement to its registration process.

- Establish a new seasonal ALH surveyor program to increase Oregon OSHA's ability to evaluate conditions at housing locations. This would be pursued in conjunction with the self-certification program budget proposal. The surveyor program would deploy seven seasonal surveyors across the state to evaluate site conditions, attempt to gain compliance when noncompliant conditions are identified, and refer sites to Oregon OSHA's enforcement program if needed. Other employees will support the program's work, including the recertification process, training, and the expected increase in ALH enforcement inspections. A rulemaking would also be conducted to implement this program.
- Increase interagency coordination regarding issues affecting agricultural workers.

On Sept. 5, 2024, Oregon OSHA filed proposed rules with the Oregon Secretary of State. Oregon OSHA held five public hearings to take in comments on the proposed rules (two of which were conducted in Spanish). Also, Oregon OSHA sought input during a formal public comment period, which closed Nov. 3, 2024. During the public comment period, Oregon OSHA received 264 written comments.

## Key issues raised during public comment period

This section outlines the key issues raised during the public comment period. Oregon OSHA received 264 written comments, and a considerable number of verbal comments over the five public hearings.

Oregon OSHA reviewed and considered all comments, both written and verbal, equally during the rulemaking process. The following sections of the rule received the most comments:

- Livestock exemption
- Electrical receptacles
- Water pressure
- Sinks
- Separate laundry
- Personal storage
- Square footage for bunk beds
- Cooking facilities
- Disease reporting
- Timelines for implementation
- Physical separation between pesticide application areas and occupied housing

These key issues are further described below under their corresponding sections as they each appear in the rule, with the exception of physical separation between pesticide application and occupied housing. This issue was considered during the rulemaking process, but did not ultimately appear in the rule proposal for the reasons discussed below.

Unless otherwise noted below, comments received by employee advocates were generally supportive of the concepts presented in the proposal, while also stating that many of the changes did not go far enough. Comments from employers and housing operators, while supportive of some provisions, generally opposed changes that exceed other housing standards or building code requirements set by other regulatory bodies.

### *Physical separation for pesticide applications*

During the rulemaking process, employee advocates requested any newly constructed ALH to be built at least 1,000 feet away from any agricultural field or orchard where pesticides are applied. Advocates had similar proposals related to existing housing that would either result in removal of trees or not use existing housing stock in areas where certain pesticides are applied. Employer representatives have highlighted that Oregon OSHA's rules already have requirements that protect both ALH occupants and workers during pesticide application activities. Oregon OSHA's Worker Protection Standard (WPS) rule protects workers and is among the best in the nation. Oregon OSHA also remains committed to enforcement activities that are centered in pesticide protections.

Oregon OSHA's Worker Protection Standard (WPS) rule explains how to protect applicators, mixers, and labor housing occupants from exposure to pesticides and includes training

requirements so occupants know how to recognize hazards and protect themselves. The Worker Protection Standard requires windows and doors to be closed in ALH when pesticides are applied. Under certain conditions, occupants must also be evacuated more than 150 feet away from the pesticide application zone and must wait 15 minutes to return to the housing. Also, there are specific requirements that protect items used by housing occupants from pesticide residue. Any pesticide residue must be immediately and properly cleaned up. It is important to note that pesticide drift is already prohibited under the jurisdiction of the Oregon Department of Agriculture.

## Description of the rule as adopted

The adopted amendments clarify, modernize, and refine language in the rule, including a number of updates to rule references, such as references to drinking water rules at the Oregon Health Authority (OHA).

The use of the word “camp” within this rule reflects the current federal standard. Oregon OSHA minimized its presence in the rule by removing it in most instances, in recognition of the historical injustices and harm associated with the term. The remaining reference in Division 4 of the word “camp” is retained in section (2), which contains an exemption for manufactured dwelling parks, organizational camps, RV parks, etc. This language is describing a different type of camp than what has been traditionally associated with the rule, and was not modified in this rulemaking. The Division 2 title was also amended for that reason. However, the reference to federal OSHA’s “Temporary Labor Camps” 1910.142 was not amended because that title is still active in the Federal Register.

This rulemaking includes changes to requirements concerning limitations on charging occupants, rule definitions, housing registration, site requirements, water supply, bathing and handwashing facilities, laundry, toilets, living and sleeping areas, fire protection, kitchens, disease reporting, and heat illness prevention. Some new requirements have a phased implementation with delayed effective dates to allow transition time for compliance.

Oregon OSHA reviewed and considered all comments (oral and written) received from the RAG, as well as those submitted during the public comment period.



## Charging occupants

### OAR 437-004-1120(3)

Oregon OSHA proposed changes to expand the prohibitions against pay-per-use services. These were expanded in recognition of the limited resources that occupants have available and the importance these items in relation to health and sanitation. Specifically, toilet paper, soap for handwashing, laundry facilities, and cool potable water were added.

During the public hearings and comment period, some commenters requested clarification on charging for additional provisions that go beyond those items listed in the existing rule. This section of the rule applies only to minimum requirements. Nothing in this rule would prohibit, for example, coin-operated laundry on site, as long as there was a free laundry option that satisfied the rule's minimum requirement.

After taking into account these comments, Oregon OSHA maintains the proposed language for the adopted rule.

## Definitions

### OAR 437-004-1120(4)(o)

Oregon OSHA proposed one substantive change to this section by implementing a sunset for the outhouses, pit toilets, or privies to be counted in the toilet requirement. These types of toilets are generally recognized as being less sanitary and removing them from counting toward the required ratio encourages more sanitary options. Nothing in the proposed rule would prohibit this type of toilet on housing sites, but starting Jan. 1, 2026, they would not be counted towards the number of required toilets.

As discussed during the rulemaking process with various advisory members, compliance with this change could be achieved through multiple options, including the use of portable chemical toilets, expansion of existing plumbed toilet facilities, or the construction of new toilet facilities.

Some comments provided during the public hearings expressed support for this change, but stated that the provision does not go far enough. Others expressed concern for both the timeline for implementation and the cost of either plumbed toilets or monthly chemical toilet rentals (including servicing).

After careful consideration, Oregon OSHA maintains the proposed language for the adopted rule. This rule change acknowledges the historical use of outhouses, and while not outright forbidding them, ensures that moving forward there is a minimum number of toilets that are plumbed, portable, or chemical at each housing site.

## Housing registration requirements

Oregon OSHA proposed substantive changes to the Registration section of the rule: a registration exemption for housing on nonfood crop operations was removed; language was



changed stating that Oregon OSHA will register housing that is “free from all hazardous conditions,” instead of “substantially in compliance with all applicable safety and health rules”; and a provision was added requiring that water testing results for coliform bacteria, arsenic, and nitrates be included with the registration application.

### OAR 437-004-1120(5)(a)(C)

Oregon OSHA proposed to remove the registration exemption for housing on nonfood crop operations. Although housing for these operations was previously required to comply with the requirements in the ALH rule in its entirety, no registration requirement existed. Oregon OSHA recognized the value in having all housing facilities with more than one family or five unrelated people registered. This allows for better awareness and ability to deploy Oregon OSHA resources appropriately, regardless of the commodity for sale. This change could bring industries, such as hemp for fiber harvest, under Oregon OSHA’s registration requirements.

As discussed with various advisory members during the rulemaking process, those sites not previously registered would need to follow the registration requirements of the rule.

No comments were submitted regarding this proposed change, and Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120(5)(b)(A)-(C), and (5)(c)(C)

Oregon OSHA’s proposed language provides clarification regarding existing registration requirements and adds a date by which some housing must be registered. This will allow more time for consultations to be conducted, if needed.

Subsection (5)(b) requires housing that is occupied year-round register with Oregon OSHA by Feb. 1. Additionally, the proposal strikes “or employer” from the rule, which helps clarify that it is the operator of the housing who is required to register.

After consideration of the record, Oregon OSHA maintains the proposed language for the adopted rule.

Subsection (5)(b)(A) inserts the word “calendar” to clarify that the operator must contact Oregon OSHA at least 45 calendar days before the first day of operation or occupancy (as opposed to business days). Oregon OSHA struck the words “instructions and additional information will come later by mail” to reflect other methods of communication such as electronic methods (email).

After consideration of the record, Oregon OSHA maintains the proposed language for the adopted rule.

Subsection (5)(b)(B) strikes the words “substantially in compliance with all applicable safety and health rules” and inserts “free from all hazardous conditions.” (This language is repeated in (5)(c)(C).)

A significant number of comments were submitted opposing the phrase “free from all hazardous conditions.” Multiple people expressed concern that the wording was ambiguous and, therefore, compliance would be difficult. One comment stated,

*We can not as farmers ensure against introduction of harmful drugs, use of cigarettes and alcohol (a know carcinogen). Bee stings, mosquito bites, slipping on a step due to intoxication, earthquake, wildfire smoke, domestic abuse, or anaphylaxis due to peanut butter consumption, etc, etc.*<sup>14</sup>

Oregon OSHA considers the current language of “substantially in compliance with all applicable safety and health rules” to be ambiguous and challenging to quantify. The proposal language of “free from all hazardous conditions” more closely aligns with other Oregon OSHA terminology when considering if there is a hazard to a worker rather than just a rule violation. Oregon OSHA defines hazard as “a condition, practice, or act that could result in an injury or illness to an employee.” In OAR 437-001-0010 (2), it states that the director adopted “OAR 437, Division 1, to assure, as far as possible, safe and healthful working conditions for every employee in Oregon, to preserve our human resources and to reduce the substantial burden which is created by occupational injury and disease.”

After consideration of all comments, Oregon OSHA maintains the proposed language for the adopted rule.

Subsection (5)(b)(C) inserts language “and the housing is intended to be occupied, the operator must report to Oregon OSHA at least 45 calendar days before operation.” This amendment clarifies that the registration process must be completed 45 calendar days before the occupancy.

After consideration of all comments, Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120(5)(b)(E)

Oregon OSHA proposed language requiring that certain housing be required to include annual water testing results for coliform bacteria and nitrates with their ALH registration application. The proposal also requires that the initial registration (for all sites after adoption) include arsenic sampling results. These changes allow Oregon OSHA to have more relevant information on safe water supply when issuing registrations.

As discussed with various advisory members during the rulemaking process, compliance could be achieved through submitting results to Oregon OSHA with the yearly registration application.

Multiple comments were received from housing operators and employers. Most questioned the timing of the testing – asking how close to registration the testing should occur and stressing

<sup>14</sup> D-242

that this could put a strain on labs since the majority of registration occurs at approximately the same time. This section of the rule addresses only water testing results being included with the registration application. Timing of water testing is addressed in section (7) Water supply. That section clarifies that the housing site must have an arsenic test at least once, as well as a coliform bacteria and nitrate analysis at least every 12 months, and as often as needed.

Oregon OSHA acknowledges that the registration process and water testing schedule may occur at different times, and that there is some delay between testing and registration. The rule requires proof of annual water testing to be submitted each year.

Also, Oregon Health Authority provided some recommendations on language to align more closely with their verbiage. After consideration of these comments, Oregon OSHA modified the language to help address these comments and extended the effective date until Jan. 1, 2026.

### OAR 437-004-1120(5)(e)(B)-C

This subsection proposes language adding to and clarifying existing rules.

Subsection (5)(e)(B) adds “or their representative” to the requirement for what must be included on a protest of registration. That provision was added to align language that is in ORS 654 regarding the employee representatives. Based on the ORS, this revision has no practical effect other than drawing attention to its presence also in rule.

After consideration of all comments, Oregon OSHA maintains the proposed language for the adopted rule.

## Site requirements

Oregon OSHA proposed substantive changes to OAR 437-004-1120(6) Site requirements in the following areas: site maintenance and drainage, toxic material storage, housing near livestock, electrical outlets, lighting, and address and road markings.

### OAR 437-004-1120(6)(a), and (6)(c)

Oregon OSHA proposed language requiring that ALH and related facilities must have adequate drainage and be free of depressions in which water may become a nuisance.

To align closer with federal OSHA’s requirement, language was amended to reflect terminology used in federal OSHA’s CFR 1910.142(a) standard, which states “All sites shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.”<sup>15</sup>

As discussed during the rulemaking process with various advisory members, compliance could be achieved through filling in depressions with dirt or gravel, or by elevating the foundation of the housing structures as necessary.

<sup>15</sup> 29 CFR 1910.142(a). U.S. Department of Labor, Occupational Safety and Health Administration.

During the comments period, one person questioned the use of the word “nuisance” in context of standing water, asking “At what point does a puddle of water become a “nuisance”?”<sup>16</sup>

Federal OSHA clarifies in its Field Operations Manual<sup>17</sup> that housing site locations should be reviewed for “adequate drainage in relation to periodic flooding, swamps, pools, sinkholes, and other surfaces where water could collect and remain for extended periods.” Oregon OSHA’s understanding of this provision is similar, namely that the nuisance of water is not simply its existence on the ground (after a rainstorm, for example), but rather the extended presence of pooled water.

After consideration of all comments, Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120(6)(e)

The newly structured (6)(e) of the rule proposal requires that toxic materials used in work activities are locked and stored at least 30 feet from any housing, and that any grass or brush is cleared at least 30 feet from the facility if the storage created a fire hazard.

As discussed with various advisory members during the rulemaking process, compliance could occur through the installation and use of various types of locking storage sheds. Some sites may need to move their existing sheds to comply with the 30-foot requirement.

Through a form letter received, dozens of comments supported this change, which all stated, “Storage of toxic materials and distance increases the safety of children in ALH.”<sup>18</sup> Conversely, a number of comments expressed concern that the term toxic is not defined.

Oregon OSHA uses the word “toxic” throughout its entire rule sets across all divisions. The context of these various rules make creating a single definition challenging as what is appropriate for one rule could create new policy decisions in other rule areas. The meaning of the word “toxic” is dependent upon the circumstances and the context of the rule in which the word is used. After consideration of all comments, Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120(6)(h)

To align with federal OSHA’s requirement, Oregon OSHA proposed to strike a pre-existing rule exemption that allowed occupants to live within 500 feet of livestock as long as they were employed to tend to or otherwise work with the animals.

As discussed with various advisory members during the rulemaking process, this could be achieved through a variety of options, including moving the housing (for example, if a travel

<sup>16</sup> D-22

<sup>17</sup> Federal OSHA Field Operations Manual, Chapter 12: Specialized Inspection Procedures

<sup>18</sup> Form email 2

trailer is being used), the purchase of travel trailer or tiny home, the construction of new ALH facilities, or moving the livestock to a different area.

The proposal prompted a considerable response, both through written comments and during the public hearings.

First, many comments indicated that the language of the proposal may conflict with existing land-use statutes, specifically ORS 215.253 (Restrictive local ordinances affecting farm use zones prohibited; exception), which states:

*(1) No state agency, city, county or political subdivision of this state may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition) in a manner that would restrict or regulate farm structures or that would restrict or regulate farming practices if conditions from such practices do not extend into an adopted urban growth boundary in such manner as to interfere with the lands within the urban growth boundary. "Farming practice" as used in this subsection shall have the meaning set out in ORS 30.930.*

*(2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state.<sup>19</sup>*

Oregon OSHA considered this comment. Even if this proposal were to fall under ORS 215.253(1), it would still be allowed as a lawful health and safety restriction under the exception provided in ORS 215.253(2).

Some comments raised questions over the applicability of the rule, for example, whether it would prohibit housing anywhere on a large range where livestock roam free. When determining the rule's application, it is important to first look at how Oregon OSHA defines livestock operations, which is:

*...any place, establishment or facility with pens or other enclosures in which livestock is kept for purposes including, but not limited to, feeding, milking, slaughter, watering, weighing, sorting, receiving, and shipping. Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance are outside this definition.<sup>20</sup>*

The last line of this definition makes clear there is a difference between animals roaming over a distance versus animals kept in an enclosure for purposes of application of the housing exclusion. Specifically, the prohibition on locating housing within 500 feet of livestock already

<sup>19</sup> ORS 215.253

<sup>20</sup> OAR 437-004-1120(4)(h)

takes into account and would not apply to those locations where the housing is near *roaming* livestock.

A federal letter of interpretation provides more clarity on what it means for animals to be “generally kept for protracted periods of time in enclosures.” This interpretation provides a basis for the applicability of Oregon’s rule.

Some comments focused on the many tasks or settings where a worker’s job required them to be near the animals, such as for veterinary or protective care. The above-referenced federal letter of interpretation further discusses such situations:

*When it is difficult for an employer to adhere to certain stipulations of a standard because of the inherent nature of his operation, an evaluation of the health and safety repercussions is necessary. If it can be demonstrated that no significant risk to workers' health and safety would occur as a result of a nonconforming activity, then the situation may be judged to be "de minimis" and no citation of the aberrant activity will be issued.<sup>21</sup>*

Oregon OSHA maintains that this interpretation is applicable when considering this rule’s relationship to those instances when tasks require working with or near animals. In other words, some instances may be determined to be *de minimis*.

Many commenters mentioned that the housing offered to employees near livestock is typically the homesteaded farmhouse on its respective property, with all the amenities provided inside a typical single-family home. Housing of this nature minimizes the hazards associated with living adjacent to livestock because it does not require occupants to traverse through or adjacent to livestock areas to access their required amenities.

Other comments disputed federal OSHA’s applicability because its rule is titled “Temporary Labor Camps” and federal interpretation supports the temporary nature of the regulated housing. They also maintained the housing that is used adjacent to livestock operations is permanent with long-term employees living there, and that aligning with the federal rule is not appropriate.

While Oregon OSHA’s rule relates to the federal standard, it has a broader application and applies to all employer-provided housing, regardless of permanency of the structure or the length of employment. Oregon OSHA’s position is that employer-provided housing is temporary to the occupant because it is provided as a contingency of the employment relationship. As a state plan, Oregon OSHA must be at least as effective as federal OSHA, but it also can, and often does, have standards that are more protective than the federal counterpart.

As previously mentioned, federal OSHA standards require that housing not be allowed within 500 feet of livestock. To ensure that Oregon OSHA remains ALAE as federal OSHA, it is

<sup>21</sup> Federal OSHA standard interpretation, April 12, 1988, <https://www.osha.gov/laws-regs/standardinterpretations/1988-04-12>



essential that the standard relating to livestock be as effective as the federal standard. Therefore, the language for adoption provides a safe harbor to the requirement for housing to be 500 feet or more away from livestock. The housing can be located within 500 feet if all the following are met: the housing contains all of the required sinks, toilets, showers, sleeping areas, and an indoor kitchen, within the same structure or dwelling, not separated by distance. Also, the effective date was extended until Jan. 1, 2028.

### OAR 437-004-1120(6)(j)

Oregon OSHA proposed substantive changes to (6)(j) that would require all sleeping rooms in ALH have at least one wall-type electrical receptacle for every two occupants.

As discussed with various advisory members during the rulemaking process, this could be achieved through the installation of additional outlets or through the proper use of power strips or similar devices. If power strips or similar-type devices are used to meet the requirements of this rule, they must be used in accordance with their listing and labeling. Some employers may need to expand or install a new electrical panel.

It should be noted that the proposal maintains a pre-existing rule provision in (6)(l), which requires at least one wall-type electrical outlet in every living area for facilities built or remodeled before Dec. 15, 1989, and after that date that facilities comply with the code in effect at the time of construction or remodeling. Oregon OSHA does not intend that power strips in sleeping rooms be connected to extension cords that are plugged in to outlets in other rooms because this may create a tripping hazard for occupants and also violate electrical rules.

Multiple comments were received during the public hearings and public comment period. Most comments opposing this proposal took issue with the outlets being “wall-type,” which may require significant electrical work and cost.

One commenter noted that the proposed requirement “goes well beyond Oregon’s electrical code and exceeds federal OSHA’s standard in 29 CFR 1910.142(g) without a clear health or safety rationale...” and mentioned that the fiscal impact statement clearly allows them.<sup>22</sup>

After taking into account these comments, Oregon OSHA revised language for the adopted rule, which requires that each occupant in a sleeping room “must be provided access to at least one electrical receptacle (outlet),” and notes were added to provide additional clarity. Also, the effective date was extended until Jan. 1, 2027.

### OAR 437-004-1120(6)(p)

To ensure occupants can accurately describe their location if they need to summon emergency services, Oregon OSHA proposed substantive changes to (6)(p), which would require that road

<sup>22</sup> D-202

forks and driveways between housing and public access roads be properly marked, and that each building and unit used to house workers be properly marked.

The proposed language adds to an existing requirement that a housing site's street numbers be displayed and easily visible to responding emergency vehicles on public highways and roads. The addition of the proposed language helps ensure that housing can be readily found in an emergency, especially given the remote nature of many housing sites. Occupants of the housing are often not familiar with the local area and may need more help to provide instructions to emergency services.

As discussed with various advisory members during the rulemaking process, compliance could be gained by installing address signage and directional markings at road forks and driveways, and by installing proper address markings at each building and house unit, or verifying existing markings.

The proposed language was generally well received with no significant comments submitted, except for the timeline. Oregon OSHA maintains the proposed language for the adopted rule. In response to the timeline comments, the effective date was extended until Jan. 1, 2026.

## Water

Oregon OSHA proposed substantive changes to OAR 437-004-1120(7) Water supply, including an updated reference to the Oregon Health Authority's rules (OAR Chapter 333 Division 061, Drinking Water), increased water PSI, more water testing requirements, and a requirement to post testing results in the housing.

### OAR 437-004-1120(7)(a)

Oregon OSHA proposed to update language requiring housing to conform to the standards of Oregon Health Authority's Drinking Water rule (OAR Chapter 333, Division 61), and to increase the site's water system pressure beginning Jan. 1, 2026, from 15 pounds per square inch (PSI) to 20 PSI at the outlet end of all water lines, regardless of the number of outlets in use. The proposal included documentation requirements for systems that can reach at least 15 PSI, but less than 20 PSI.

As discussed with various advisory members during the rulemaking process, compliance could be gained by installing pressure tanks to increase PSI of the system or by testing the water pressure and having a qualified professional document its limitations.

Many comments received agreed that higher PSI would be a positive change, but noted that many wells had limitations that would be costly to upgrade. Furthermore, many noted that the plumbing code allowed for 15 PSI at outlet ends, and requested Oregon OSHA consider striking this increase.

A comment received from the Oregon Health Authority's Drinking Water Services stated:



*OAR 437-004-1120(4)(m). Defining “potable” as water that meets OAR 333-061 is overly burdensome. There are 300 pages of regulations, from monitoring of over 90 contaminants to various plans to source construction standards. Consider simplifying these requirements while still being protective of public health by defining Potable water as water that is monitored as prescribed in (7)(b) and does not exceed standards specified in [new section in 7 as suggested in comment #6 below].<sup>23</sup>*

Another comment echoed this:

*Proposed OAR 437-004-1120(7)(a) would require that all farm employers (regardless of size) be held to standards applicable to public water systems, through incorporation by reference of OAR Chapter 333, Division 61. Such a requirement unreasonably burdens smaller farm employers with regulations that are otherwise only applicable to entities that clearly meet the definition of water supplier or whose operations clearly meet the definition of a public water system. Farm employers should be held to standards applicable to water suppliers or public water systems only if they meet the definition of a water supplier or otherwise operate a public water system as defined under OAR 333-61-0020. Holding other employers responsible would represent an undue economic burden on those smaller employers.<sup>24</sup>*

After considering comments and other code regulations for water pressure, Oregon OSHA removed the language increasing PSI, and maintained the existing requirement for 15 PSI.

After considering comments on the rule reference to follow OAR Chapter 333 Division 61, Oregon OSHA maintains the proposed language for the adopted rule. Although Oregon OSHA understands that OHA’s thresholds are different based on the number of people using the water system or the length of time the system is providing water, safe drinking water is essential and should be available to any occupant, especially those who have no other options to access safe drinking water.

### **OAR 437-004-1120(7)(b)**

To ensure housing occupants have access to safe drinking water, Oregon OSHA proposed the following substantive changes to (7)(b): that water from non-public systems be tested by an accredited lab for arsenic at least once; that *E. coli*, total coliform, and nitrate testing be conducted at least every 12 months; and that the results of these tests be posted in the housing in the language of the workers or, in lieu of translation, through posting a pictogram poster that Oregon OSHA will create.

As discussed with various advisory members during the rulemaking process, compliance would be gained through conducting specific water tests at the intervals listed: an arsenic test

<sup>23</sup> D-133

<sup>24</sup> D-193

at least once (for those sites that have not previously conducted one) and yearly testing for *E. coli*, total coliform, and nitrates, followed by posting the results in the housing.

Oregon OSHA received a comment from the Oregon Health Authority's Drinking Water Services division generally supporting the requirement for water testing, but suggesting that "*Escherichia coli* (*E. coli*) and total coliform" be changed to "coliform bacteria."

Oregon OSHA considered this suggestion and agrees that it is redundant to list both total coliform and *E. coli* (because *E. coli* is a type of coliform bacteria). Therefore, "*Escherichia coli* (*E. coli*) and total coliform" was changed to "coliform bacteria."

The proposal to test for arsenic at least once did not draw many comments, but it should be clarified that if previous arsenic testing by an accredited laboratory has already been conducted within a reasonable time period, and the housing provider has the results that they post in housing, then this would satisfy the intent of the rule.

Many comments focused on the timing of the water testing, wondering how it related to section (5) Housing Registration Requirements of the rule (which requires test results be included with the yearly registration application). As discussed in Section XIII of this document, the intent of section (5) Housing Registration Requirements is that the most recent test results be included with the registration application, and that the first registration after the effective date include arsenic results.

The intent of section (7)(b) of the rule is to address what must be tested and how often; specifically, that an arsenic analysis be completed at least once and that total coliform (which would indicate the presence of a bacteria such as *E. coli*) and nitrates be completed at least every 12 months.

The requirement to post water results in the housing also received few comments, with some asking if Oregon OSHA had created a pictogram yet or if employer-provided translation would be acceptable. Nothing in the rule forbids an employer from translating their test results as long as the translation accurately reflects that the water meets, or does not meet, requirements. Oregon OSHA anticipates the pictogram will be available before the effective dates.

After considering all of these comments, Oregon OSHA revised language for the adopted rule that includes the edits to coliform as described above and extended the effective date to Jan. 1, 2026, and the rest of the language as proposed.

## Bathing facilities

Oregon OSHA proposed two substantive changes to OAR 437-004-1120 to require a private dressing area and that shower stalls have locking doors, with both of these provisions having a delayed effective date.

## OAR 437-004-1120(9)(d)

Oregon OSHA proposed language requiring a private dressing area in or adjacent to bathing facilities that meets the needs of the occupants, with a delayed effective date of Jan. 1, 2027. By not providing a private place to dress, occupants could be required to dress in a public area or in the slippery shower area, which also can create a sanitation hazard.

As discussed with various advisory members during the rulemaking process, compliance could be achieved through a variety of methods, including the construction of a private dressing area within or adjacent to an existing bathing facility, the use of floor standing dressing rooms, the use of panel room dividers, or through the building of additional structures or adding on to existing housing.

The proposal was met favorably by many groups and people who submitted comments. One person stated, “spaces for drying off and changing respects the dignity and security of farmworkers, especially of women and their children.”<sup>25</sup> Another comment posed the following questions: “Does a private shower stall itself qualify as a private dressing area?”<sup>26</sup> And, “Do private changing areas have to equal the number of showers?”<sup>27</sup>

It is the intent of this rule that the dressing area be separate from the shower – though nothing would prohibit it from being immediately adjacent to the shower (similar to showers in many gyms, dorms, etc., where there is a cubicle immediately in front of the shower stall). The rule does not define privacy, nor does it state that a lock must be provided. Examples discussed during the FIAC confirm that curtains or room divider panels will meet the intent of the rule, in addition to more permanent structures such as walls and doors. Finally, the rule does not strictly tie the dressing area to a ratio (per occupant), but requires that it meet the needs of the occupants.

After consideration of the comments, Oregon OSHA maintains the proposed language for the adopted rule. The effective date was extended until Jan. 1, 2028.

## OAR 437-004-1120(9)(e)(B)

Oregon OSHA proposed language requiring that beginning Jan. 1, 2026, each shower stall have a working lock, while maintaining the current required ratio of one showerhead for every 10 occupants. Without locking doors on shower stalls, occupants have been locking the outer bathhouse door to provide safety and security while showering.

As discussed with various advisory members during the rulemaking process, this could be achieved through adding a locking mechanism to existing doors or installing doors or stall partitions and locking mechanisms where curtains are in place. Conversations held with the

<sup>25</sup> Form email 2

<sup>26</sup> D-22

<sup>27</sup> D-49

groups also confirmed that a variety of locking-style mechanisms would comply, such as hook and eyebolts or barrel bolts.

Many comments supported this change with one commenter reiterating, “Workers need safe showers in private stalls in common facilities ...”<sup>28</sup>

Others expressed concern about the cost to construct and install doors, and wondered how bathrooms in single use bathrooms would comply. One person stated,

*This rule should only apply where a bathroom may be occupied by more than one person at a time. All of my bathrooms have locking doors, and a single occupant has security and privacy by locking the door. The cost to upgrade this would be in the thousands.*<sup>29</sup>

Although the rule language specifically says that shower stalls must have a lock, it does not acknowledge or distinguish between single-use and common-use facilities. Therefore, it is important to clarify that the intent of the rule is privacy when showering. This may be achieved through a locking entrance door to a single-use bathroom or a locking door on a shower stall in a common-use bathroom; both of those scenarios would comply with the rule.

Also, many comments were received indicating that the proposed effective date does not provide enough time to construct these areas when considering the time it takes to obtain building permits.

After taking into consideration these comments, and the inherent differences between restrooms in common-use facilities and single-use facilities, Oregon OSHA maintains the proposed language for the adopted rule, but extended the effective date until Jan. 1, 2028.

## Handwashing facilities

Oregon OSHA proposed two substantive changes to OAR 437-004-1120(10) Handwashing facilities regarding the ratio of handwashing sinks, which has a delayed effective date, and provisions at the handwashing facility.

### OAR 437-004-1120(10)(a) and (10)(b)

The proposed language maintains the ratio of sinks at one for every six occupants, but clarifies that, starting Jan. 1, 2027, food preparation sinks do not count towards the required handwashing ratio. It also requires that handwashing facilities be located close to toilets and strikes “or close to the sleeping places.” It requires the provision of paper towels and a disposal bin near the handwashing facility.

As discussed with various advisory members during the rulemaking process, compliance could be achieved with the installation of portable handwashing stations or portable sinks, as well as

<sup>28</sup> D-155

<sup>29</sup> D-234

by supplying paper towels and garbage bins. Some housing providers may choose to comply by moving portable toilets closer to existing handwashing facilities or installing plumbed handwashing sinks rather than using portable handwashing stations.

This proposal received numerous opposing comments. Comments focused, in particular, on housing sites that already have designated kitchen and bathroom sinks immediately adjacent or in the facilities. One person stated,

*Changing the hand washing sink ratio to 1 sink per 6 occupants, but not allowing kitchen sinks to count towards the ratio, is very problematic. I would need to tear open my bathroom walls to add the plumbing for sinks that really don't fit anywhere. I already have a sink adjacent to each toilet. I do not understand the reasoning for going past that ratio. This rule change alone would cost me about \$4000 to implement – and with more cramped bathrooms and no plausible benefit to the workers.<sup>30</sup>*

While the rule does not address this, those sites that already have designated sinks in bathrooms and kitchens may comply by installing an additional sink where it suits them best, whether indoors or outdoors. If a common-use laundry facility is on site, which would include a “slop sink” (or utility sink), that sink may count towards the ratio of 1:6. Also, portable sinks remain an option and are not required to be inside.

Oregon OSHA recognizes the importance of separating potential restroom contaminants to areas where food preparation is conducted. After considering these comments and constraints related to the various types of housing, Oregon OSHA maintains the proposed language for the adopted rule, but extended the effective date until Jan. 1, 2028.

## Laundry

Oregon OSHA proposed two substantive changes to OAR 437-004-1120(11) Laundry facilities in the following areas: the ratio of laundry tubs and trays, and cleaning clothing that has been contaminated with chemicals. Both of these provisions contain a delayed effective date.

### OAR 437-004-1120(11)(a)

Oregon OSHA proposed to change the ratio of laundry tubs and trays to one for every 25 occupants and leave the ratio for laundry machines at one for every 30 occupants. This would apply when laundry tubs or trays are used to meet the laundry provision. It would not require laundry tubs and trays in all housing. This provision has a delayed effective date of Jan. 1, 2026.

As discussed with various advisory members during the rulemaking process, operators would be able to choose how they comply with this rule (providing either trays or tubs or machines), as long as they provide the number required in the listed ratios. Some housing providers may find that upgrades are necessary to comply with this provision, such as to their septic or

<sup>30</sup> D-113

electrical systems, or to provide a protected area for the machine if there is no covered area available.

Some comments supported the change, citing the long wait times occupants have to use shared facilities, but stressed that the proposal does not go far enough. “The small or no ratio change will have little effect on access to laundry for labor housing occupants.”<sup>31</sup> Other comments expressed concern about the short time frame to modify existing laundry facilities, as the proposal included an implementation date of Jan. 1, 2026.<sup>32</sup> Another commenter expressed frustration and stated that the general public used laundromats.<sup>33</sup>

Oregon OSHA considered the relationship to other standards when proposing this rule. Federal OSHA’s standard 29 CFR 1910.142 requires laundry trays or tubs in the ratio of one for every 30 occupants, without specifically addressing machines.<sup>34</sup> This standard mirrors the corresponding ANSI standard.<sup>35</sup> The Department of Labor’s Employment and Training Administration (ETA) standard requires one tray or tub for every 25 occupants or one washing machine for every 50 occupants.<sup>36</sup>

It is recognized that many occupants may choose to pay for laundromat use, rather than wait to use their site’s facilities and as long as the operator follows the requirements of the rule, this situation would be compliant. Furthermore, nothing in this standard prevents a housing provider from offering coin-operated laundry services as long as the minimum requirements listed here are provided for free.

After taking into account these comments, Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120(11)(e)

Oregon OSHA proposed a new requirement to provide a separate method for cleaning clothing contaminated with chemicals, which would also go into effect Jan. 1, 2026. This would allow occupants to appropriately clean their contaminated clothing, as needed, without any restrictions on water/electricity use.

As discussed with various advisory members during the rulemaking process, compliance could occur through a variety of methods, including providing more tubs, running clothes in a separate wash cycle, or sending clothing out for commercial laundering.

Multiple comments were received about this proposed change. One person asked,

<sup>31</sup> D-97

<sup>32</sup> D-132

<sup>33</sup> D-45

<sup>34</sup> 29 CFR 1910.142(f)

<sup>35</sup> ANSI/PSAI Z4.4-2016; Section 5.7.1

<sup>36</sup> 20 CFR 654.412(d)



*Does the agency mean clothes worn by pesticide applicators? Or does this include clothes worn by workers in the orchards even after the clearance time for pesticide application has passed? Also, can growers comply with this “separate method” requirement by mandating running an additional tub rinse cycle after the contaminated clothes are laundered? From the advisory committee meetings, we understand this to be the case, but this needs to be formally clarified in the rule or elsewhere.*<sup>37</sup>

Washing contaminated clothes separately, followed by a rinse cycle, would meet the intent of the rule. Furthermore, Oregon OSHA and federal law require that employers use chemicals in accordance with the label, including following any stipulations for a restricted entry interval (REI), which dictates when workers may re-enter the area. This requirement for laundry does not apply after the REI has passed. It is important to note “contaminated” is not directly connected to pesticides, but could include other contaminants such as antifreeze, gasoline, and diesel that should not be washed with other household laundry.

Another comment asked does this provision “have to be located at the housing site or is a work site location an option?”<sup>38</sup>

The proposed rule language includes examples of methods that would comply, such as providing multiple tubs or trays, running clothes in separate wash cycles, or sending clothing out for commercial laundering (which could mean an off-site laundry service, or laundromat). Nothing in the proposed language requires this be at the housing site (though the provision to provide basic laundry facilities on site remains).

It is Oregon OSHA’s position that it necessary for occupants to have a mechanism to wash contaminated clothing items separately from other household laundry. After considering comments submitted, Oregon OSHA maintains the proposed language for the adopted rule, providing examples in the rule text that help clarify possible methods of compliance.

## **Toilets**

Oregon OSHA proposed two substantive changes to OAR 437-004-1120(12) Toilet facilities in the following areas: the number of toilets required and the type of toilet privacy provided. Both of these have a delayed effective date.

### **OAR 437-004-1120(12)(e)(A)-(B)**

The proposed language sunsets the existing toilet ratio requirement of one toilet for every 15 occupants of each gender on Dec. 31, 2025. Beginning Jan. 1, 2026, the proposal requires at least one toilet for every 10 occupants of each gender, with no less than two toilets if there are two or more occupants if the facilities are common use. This section also requires that all toilets provide privacy.

<sup>37</sup> D-22

<sup>38</sup> D-49

Throughout the rulemaking process, Oregon OSHA has heard of long lines to use the restroom. By increasing the number of toilets, occupants will have greater access to restrooms, which may also reduce the number of health issues associated with limited restroom access.

As discussed with various advisory members during the rulemaking process, compliance with this change could be achieved through multiple options, including the use of portable chemical toilets, expansion of existing plumbed toilet facilities, or the construction of new toilet facilities. Some housing may need to upgrade their septic systems to accommodate more toilet fixtures.

Some comments provided during the public hearings expressed support for this change, but stated that the provision does not go far enough. Others expressed concern for both the timeline for implementation and the cost of either plumbed toilets or monthly chemical toilet rentals (including servicing). One commenter stated,

*...lowering the ratio per toilet from 1 toilet per 15 occupants to 1 toilet per 10 occupants, also has no clear health and safety reasoning...*<sup>39</sup>

The proposal rule exceeds federal OSHA standards,<sup>40</sup> as well as ETA,<sup>41</sup> which both require one toilet for every 15 occupants of each gender, with a minimum of two for any shared or common-use facility. It matches the ANSI standard of one toilet for every 10 occupants, if serviced once a week; (ANSI allows one toilet for every 15 occupants when serviced more than once per week).<sup>42</sup>

Although many comments supported the proposed language, some disagreed that chemical toilets should count towards the requirement.<sup>43</sup> One commenter stated,

*we believe that portable toilets are inadequate alternatives to plumbed toilets as they generally do not permit adequate ventilation, privacy, or temperature control. We strongly recommend OR-OSHA require camp operators to provide plumbed toilets to occupants, preferably within their living quarters.*<sup>44</sup>

Conversely, another commenter stated,

*Changing the number of toilets to 1 per 10 occupants is acceptable if we can supplement the existing toilets with portable toilets adjacent to the housing.*<sup>45</sup>

Another commenter stated,

<sup>39</sup> D-158

<sup>40</sup> 29 CFR 1910.142(d)(5)

<sup>41</sup> 20 CFR 654.411(b)

<sup>42</sup> ANSI/PSAI Z4.4-2016; Section 5.5.5

<sup>43</sup> D-155, D-183, D-222

<sup>44</sup> D-183

<sup>45</sup> D-113



*Changing the number of toilets to 1 per 10 occupants is acceptable if we can supplement the existing toilets with portable toilets adjacent to the housing. Adding additional toilets into existing bathrooms (inside apartments) is not viable – and would reduce my currently approved occupancy by 8 people.<sup>46</sup>*

Lastly, multiple comments were received opposing the timeframe to comply with this proposal and the associated cost of increasing the number of toilets.

Oregon OSHA recognizes the safety and health benefit of changing the toilet ratio to reduce illnesses and maintains the proposed language for the adopted rule, but extended the effective date until Jan. 1, 2027.

### OAR 437-004-1120(12)(j)(B)

Oregon OSHA proposed language removing the use of curtains on toilet stalls and added language requiring solid doors. This provision has a delayed implementation date of Jan. 1, 2026.

As discussed with various advisory members during the rulemaking process, this could be achieved through removing existing curtains and installing doors. Doors could be constructed of a variety of materials such as laminate, plastic, powder-coated steel, or other materials.

Oregon OSHA received some comments questioning the timeframe to install doors. Others asked for clarity on the intent, specifically asking about dorm-style facilities versus single-occupant-style bathrooms. These comments questioned if a locking door to a single-use bathroom would satisfy the intent of the rule.

These comments mirror others received about locking doors on shower stalls in OAR 437-004-1120(9) Bathing facilities. Although the rule language in this section specifically says to provide a solid door so the toilet compartment is private, it does not acknowledge or distinguish between single-use and common-use facilities.

Therefore, it is important to clarify that the intent of the rule is privacy when using the toilet. This may be achieved through an entrance door to a single-use bathroom or a door on a toilet stall in a common-use bathroom; both of these scenarios would comply with the rule. Although this section of the rule does not require the toilet door to be locking, single-use bathrooms would need a locking entrance door to comply with the rules in OAR 437-004-1120(9) Bathing facilities.

After consideration of the comments received, Oregon OSHA maintains the proposed language for the adopted rule, but extended the effective date until Jan. 1, 2027.

<sup>46</sup> D-113

## Portable toilets, chemical toilets, and privies

### OAR 437-004-1120(13)(b)

Oregon OSHA proposed language requiring privies be moved from 100 feet to at least 200 feet from living areas or facilities where food is prepped or served, beginning Jan. 1, 2026.

As discussed with various advisory members during the rulemaking process, this could be achieved through moving privies and filling in the existing hole with fill dirt. Oregon OSHA maintains that increasing the distance between living areas and privies has a safety and health benefit to occupants, most especially in areas with a high water table or areas subject to flooding.

Few comments were received on this proposal, and Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120(13)(e)

Oregon OSHA proposed a requirement that handwashing facilities with water, soap, and disposable paper towels be provided adjacent to or a reasonable distance from portable toilets, chemical toilets, and privies. A garbage bin for the paper towels near each handwashing facility would also be required.

As discussed with various advisory members during the rulemaking process, this could be achieved through the installation of portable handwashing stations, as well as the provision of soap, paper towels, and a garbage bin. Some housing providers may choose to install plumbed handwashing facilities, which could also require upgrades to current septic systems.

Oregon OSHA received many comments supporting this provision citing concerns about occupants using kitchen sinks to wash their hands after using the restroom.

Oregon OSHA considered the relationship to other standards when proposing this change. Federal OSHA requires one sink for every six occupants and does not specify a distance to handwashing facilities.<sup>47</sup> The ETA standard requires one lavatory or wash basin for every 15 people, and states that handwashing facilities be located within 200 feet of each living unit.<sup>48</sup> The ANSI standard for temporary labor camps requires one handwashing basin per family quarters or per six people in shared facilities and does not specify a distance to handwashing.<sup>49</sup>

After considering comments received, Oregon OSHA maintains the proposed language for the adopted rule.

<sup>47</sup> 29 CFR 1910.142(f)(1)(i)

<sup>48</sup> 20 CFR 654.412(a) and (c)

<sup>49</sup> ANSI/PSAI Z.4-2016; section 5.7.1

## Living areas

Oregon OSHA proposed substantive changes to OAR 437-004-1120(16) Living areas.

### OAR 437-004-1120(16)(a)

Oregon OSHA proposed to adopt “structurally sound” to clarify the quality of all living areas. Such locations were already required under the previous rule to be safe and in good repair structurally and stable on their foundations. As discussed with various advisory members during the rulemaking process, some members thought that such clarifying language actually changed the compliance requirements for this provision. For example, one member discussed the requirement that a civil engineer be hired to evaluate all living areas for structural soundness.<sup>50</sup>

While an employer may indeed choose to hire an engineer or similarly qualified professional to evaluate its ALH living areas, that is not a requirement of this provision. Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120 (16)(c)

Oregon OSHA proposed language requiring housing providers to notify occupants of the availability of space heaters for living areas without a permanent heating system. This is to ensure that occupants are aware of the options available to them, especially where there are colder temperatures.

As discussed with various advisory members during the rulemaking process, this is only a notification provision to supplement an existing rule to provide space heaters in certain circumstances.

This proposal was generally well received, with no significant opposition or commentary submitted during the comments period or rulemaking hearings.

After consideration of the comments, Oregon OSHA maintains the proposed language for the adopted rule.

### OAR 437-004-1120 (16)(d)(D)

Oregon OSHA proposed a requirement that gas burners not be used in living areas without adequate ventilation or range hoods. Although building codes already require this provision, Oregon OSHA included the provision to ensure the requirement was clear and evident.

The pre-existing rule already required all gas appliance and gas piping to comply with the manufacturer’s instructions and the Oregon building codes in effect when the appliances or piping were installed. The intent of the proposed language is to reinforce this provision of

<sup>50</sup> FIAC Fiscal Impact Statement, page 41: <https://osha.oregon.gov/OSHARules/proposed/2024/fiscal-impact-statement-ALH-437-004-1120-and-437-002-0142.pdf>

adequate ventilation. As discussed with various advisory members during the rulemaking process, this could be achieved through the installation of ducted range hoods or vents.

Oregon OSHA received a significant number of comments supporting this proposal, with some commenters opposing the Jan. 1, 2026, implementation date, in particular for housing sites that would need to upgrade existing systems.

All comments were considered, and Oregon OSHA maintains the proposed language for the adopted rule but extended the effective date until Jan. 1, 2027.

### OAD 437-004-1120 (16)(f)(A)-(H)

Oregon OSHA proposed changes to requirements for beds, which included restructuring and renumbering parts of this section.

Subsection (16)(f) of the proposed rule removed the option for using cots and moved suitable storage facilities to the newly numbered subsection (16)(i) of the rule.

Subsection (16)(f)(B), as proposed, strikes foam pads as an allowable option and specifies that mattresses must be at least four inches thick.

It is widely recognized that better sleep provides for safer working conditions, and Oregon OSHA maintains that mattresses four inches thick or greater provide a better sleep experience than cots.

Subsection (16)(f)(C), as proposed, requires that mattress covers be cleaned before each new occupant use and before each season's occupancy. This will ensure that occupants will have a clean mattress for their use.

Subsection (16)(f)(F), as proposed, requires that when bunks are provided, there must be a method for safe access to the upper bunk. Providing a safe mechanism to access upper bunks reduces the likelihood of an injury.

Subsection (16)(f)(G), as proposed, introduces a provision clarifying that occupants must not be forced to share a bed, reinforcing an existing rule that each occupant have their own bed. For the safety and security of the occupants, forcing people to sleep with one another is not acceptable.

Subsection (16)(f)(H), as proposed, likewise introduces a new provision clarifying that if requested by the occupants, an adult couple in a relationship may share a bed if it is at least a full size or larger. The mattress shared by an adult couple must be at least full size.

As discussed with various advisory members during the rulemaking process, compliance with new provisions could be gained through the purchase and installation of bed frames and mattresses, by purchasing thicker mattresses, by cleaning mattress covers in the timeframes required by the rule, and by purchasing or constructing and installing bunk ladders.

Oregon OSHA received comments expressing concern, not only with the financial hurdle to purchase so many mattresses at once, but also with the need (and therefore time required) to

construct or purchase an adequate method to access the upper bunk such as a ladder or step ladder.

One comment stated,

*The Labor Camp Rule changes that are proposed to go into effect in the years 2025, 2026 and 2027 add up to an enormous financial commitment in a short period of time. Maybe there are some growers / farmers that have been proactive and have 4 inch or greater mattresses and covered the mattresses with full covers. Maybe some farms have insulated the building and installed air conditioning. If a farm has not accomplished some of this housing changes proactively before the rule changes that are proposed to go into effect the financial hurdle is enormous for the proposed list of improvements to all be completed in 3 years.<sup>51</sup>*

After considering all the of comments received, the changes to this section provide additional safety and security measures to occupants and deemed appropriate that Oregon OSHA maintains the proposed language for the adopted rule. However, Oregon OSHA also recognizes that additional time is needed to implement these new requirements.

Therefore, the following changes to subsection (16)(f) were made for the adopted rule:

- A sunset date to allow for the use of cots until Dec. 31, 2025.
- A note was adopted into subsection (16)(f) to clarify that additional storage requirements are specified in subsection (16)(i) of the adopted rule.
- Delayed effective dates of Jan. 1, 2026, were adopted in subsections (16)(f): (16)(f)(B) related to mattress thickness, (16)(f)(C) related to prohibitions against fumigation, and (16)(f)(F) related to safe access to upper bunks.
- As adopted, foam pads (if provided) are not permissible after March 31, 2025. However, Oregon OSHA acknowledges that operators who provide foam pads thicker than two inches after March 31, 2025, through December 2025, would not be in violation of this subsection so long as beginning January 2026, mattresses were provided in accordance with subsection (16)(f)(B) as adopted.

### OAR 437-004-1120 (16)(g)

Oregon OSHA proposed substantive changes to OAR 437-004-1120(16)(g), which included striking pads, requiring the provision of a fully enclosed cleanable mattress cover, and striking the requirement to fumigate any uncovered mattresses or pads or treat them with an insecticide. An existing requirement to clean mattress covers was moved to (16)(f)(C).

As discussed with various advisory members during the rulemaking process, methods for cleaning mattresses include a variety of options, including using vacuums or steam cleaners and a cleaning solution as needed. The need to have fully cleanable covers is noted above.

<sup>51</sup> D-185

In regards to fumigation, Oregon OSHA proposed striking fumigation as a requirement as applying pesticides to a mattress can introduce a hazardous condition. Throughout the rulemaking process, the proposed change included banning the fumigation as a process to clean the mattress, as there other processes available to include ozone.

Oregon OSHA received many comments supporting this change, though multiple employers stated that they already provided mattress covers and that the occupants routinely removed them.

One commenter requested clarification on the use of fumigation.

*If these mattress covers are used, are growers still permitted to use fumigation for pest-extermination purposes? The proposed rule removes the option for fumigation of mattresses between uses, so it is unclear whether this amounts to a prohibition on fumigation entirely.<sup>52</sup>*

It is important to clarify that the pre-existing rule did not just allow the option for fumigation or insecticide use, it required it when mattresses were used without a cover.

After considering these comments, Oregon OSHA maintains the proposed language for the adopted rule and further clarified that fumigation is not a permitted method to sanitize mattresses in line with the proposal documents, and moved the fumigation-related provisions into subsection (16)(f)(C). A delayed effective date for prohibiting fumigation of occupant mattresses was added to subsection (16)(f)(C). A delayed effective date was also added to subsection (16)(f)(F) to provide operators more time to provide safe access to upper bunks.

#### OAR 437-004-1120 (16)(h)

As proposed, subsection (16)(h) would mirror the prohibition against the use of cots as specified in subsection (16)(f). Changes to this subsection and an increase in mattress thickness substantially improve sleeping conditions, which provides for safer working conditions for occupants. Oregon OSHA maintains the proposed language for the adopted rule.

#### OAR 437-004-1120 (16)(i)

Oregon OSHA proposed language requiring a minimum of 21 cubic feet of suitable storage for each occupant or family unit, with a portion of this storage being lockable to secure small personal effects. Oregon OSHA maintains the need to have secure storage available for occupants' personal items and effects such as personal identifying documents, medications or medical devices, and any other belongings of a sensitive nature.

<sup>52</sup> D-22



The proposal included examples of types of storage that could be used, such as wall cabinets, shelves, and dressers, as well as examples of small personal effects the rule addresses (such as a wallet, identification documents, and a mobile phone).

As discussed with various advisory members during the rulemaking process, compliance could be gained through the use of closets, shelves, cabinets, bins, lockers, or other amenities. Some housing providers may choose to modify existing rooms by building cabinets in existing space.

Oregon OSHA received many comments pointing out the lack of flexibility in this provision, and noting the different needs between short-term and long-term housing. One comment stated,

*... In some circumstances, e.g., where employees are living in labor housing on a longer-term basis, 21 cubic feet may make sense. But given that the labor housing in question is, very frequently, temporary in nature, mandating this much storage space across the board makes little sense. Indeed, in the more transient employee scenarios that occur during harvest seasons, much of the 21 cubic feet of storage space is likely to go unused. Moreover, mandating 21 cubic feet of storage space would necessarily reduce the space for employees and others to move around or use for other purposes in the living quarters, presenting its own dangers. Federal OSHA does not have a comparable storage space requirement. In fact, federal OSHA has no storage space requirement at all. There is thus no clear need for OR-OSHA to regulate storage space, either. Considering all of the above, it is simply not reasonably necessary to employee safety and health to impose upon employers a requirement that 21 cubic feet of storage space be provided in all cases.<sup>53</sup>*

The intent of the rule proposal is that each occupant have adequate space and amenities to store their belongings and to specify a minimum amount of space per occupant or family unit. The proposal includes examples of different types of storage that are meant to clarify that the space provided does not have to be contained in one piece of furniture.

Also, the rule does not require that the storage be in the same room. It is reasonable that occupants have access to storage space in their sleeping room (such as totes under the bed, wall shelves, or lockers), as well as hanging wall space, or other storage space outside the room (for example in a hallway).

The intent of the locking storage is that occupants have the ability to store their valuable items, such as identification documents, wallets, and cellphones, in a safe manner. While the proposed language does not specify the size of locking storage, the FIAC discussed examples such as money boxes (measuring approximately 7 inches by 6 inches by 3 inches) and

<sup>53</sup> D-193

padlocks, in addition to lockers and lockable cabinets, communicating that the proposed rule can be met through something similarly sized as long as it is adequate.

Oregon OSHA received comments asking if a locking bedroom door would meet the intent of the rule. A locking bedroom would be considered adequate only in cases where the space is accessible only to a single family unit. The intent is for each occupant or family unit to have a portion of their provided storage be lockable and secured for their small personal effects. The proposed rule included examples of such personal effects, such as wallets, identification documents, and mobile phones.

After considering public comment, Oregon OSHA revised language for the adopted rule that reduced the storage requirement from 21 cubic feet to 15 cubic feet (approximately the equivalent of a garment moving box or half of a typical dresser), struck examples of types of storage from the rule language, and maintained the effective date of Jan. 1, 2026, as was proposed.

### OAR 437-004-1120 (16)(j-l)

Oregon OSHA's proposed language had substantive modifications to subsections (16)(j-l). As proposed, the rule strikes historical provisions that have since expired and increases the required floor space from 40 square feet per occupant to 50 square feet per occupant when double bunk beds are used.

This brings the required square footage into alignment with the existing rule to provide 50 square feet of floor space per occupant when single beds are used. It also provides more space to coexist with others in the same room, which would provide for more protections related to communicable illness. Also, this is an area where Oregon has differed from federal OSHA and the proposal brings Oregon's requirements into alignment with the federal requirement of 50 square feet. The proposal contained a delayed effective date of Jan. 1, 2027.

As discussed with various advisory members during the rulemaking process, compliance could be achieved through a variety of methods, including reducing the number of occupants in a given sleeping area, purchasing more mobile space such as RVs or travel trailers, building new housing, or expanding the size of existing housing. If housing providers constructed new housing on the same sites, some would need to upgrade their septic systems.

Oregon OSHA received a substantial number of comments regarding this proposed change, both in support and opposition. Some who supported the proposal maintained that the rule did not go far enough and requested Oregon OSHA adopt 100 square feet per occupant.

One comment stated,

*We urge OR-OSHA to consider 100 square feet per occupant in each sleeping room, particularly if that room is essentially all the living area allowed for the housing occupants. The rules already require 100 square feet per occupant where workers cook,*



*live, and sleep. Medical experts state that this is the minimum to preserve the health of congregate housing occupants.<sup>54</sup>*

Of the many comments received opposing the proposal, the majority focused on the reduced capacity that would result, the cost and difficulties associated with building new housing or remodeling, the lack of available rentals across the state, and the potential impact on families.

One comment stated,

*Our local area does not have the capacity to handle this volume of workers in off-site housing. Hood River's limited land base and growing population have severely impacted the volume of housing available for all the members of our community. At the time of this letter, there are 17 rental units available in Hood River and 11 units available in the Bingen/White Salmon area. The lowest monthly rent for these units is \$1050 per month with the highest being \$3800. Obviously, both the volume and cost of these units would not satisfy the needs of our local agricultural workforce.<sup>55</sup>*

Other comments focused on the particular challenge of housing families and the separation that would naturally result if they were forced to split into two rooms, for example.

*So, in this situation with 4 family members being housed; What is the farmer going to do to resolve this situation? He can propose to split up the family so they are not in the same room. Another solution that I see happening and possibly accelerating is the farmers not hiring families. One must realize that in many situations the family has one or two people working while there are young children that are not working.<sup>56</sup>*

Another comment echoed this sentiment:

*We provide Agricultural Labor Housing (ALH) which consists of three buildings built in 1992, 1997 and 2006. Total capacity of all 3 buildings is 110 beds. Each building was built in their respective year to meet both Oregon Building Codes and the ALH rules of OR OSHA. All 3 were upgraded with heat/AC systems in 2017. Over the last 30+ years we have seen our seasonal harvest picking crew move from predominantly single men to a predominantly family workforce. With families comes an inherent bed space inefficiency of 15-25%. Within many family units there are young, non-working children and /or grandparents who cannot work, all of whom utilize bed space for that 2-month harvest period.*

*We, like other growers in our area, try to push our bed capacity to its maximum knowing that 110 beds filled gives us about 85 workers. Like most other growers in the area, we would like MORE beds available to us, not less.*

<sup>54</sup> D-204

<sup>55</sup> D-85

<sup>56</sup> D-142

*Section 16L of OR OSHA's ALH proposed rules increases space for each person from 40 ft<sup>2</sup> (if using bunks, which we do) to 50ft<sup>2</sup>/person. If our farm had been required to comply with the proposed space requirement in this past 2024 harvest season, we would have lost 50 beds out of 110. This is because most of the people we house are families. Each family group would need to be cut in half and consume two rooms rather than one, leaving half of the beds empty in both rooms. It doesn't matter if the family unit is 4,5,6 or more people, the same principle of breaking each family in half and putting them in 2 rooms would apply anywhere in Oregon. Had we been forced to comply with the new suggested space rules of 16L in the 2024 season, only 55% of our crop would have been harvested. The reduction in beds would equal reduction in harvest. 45% reduction in harvest equates to a 45% reduction in Gross Revenue. It is that simple and that drastic.<sup>57</sup>*

Oregon OSHA also considered federal OSHA's requirements related to occupancy density.<sup>58</sup>

Of particular note is the U.S. Department of Labor's ETA standard, specifically the section on applicability, which states the following:

*(a) Employers whose housing was completed or under construction prior to April 3, 1980, or was under a signed contract for construction prior to March 4, 1980, may continue to follow the full set of the Department's ETA standards set forth in this subpart.*

*(b) The Department will consider agricultural housing which complies with ETA transitional standards set forth in this subpart also to comply with the Occupational Safety and Health Administration (OSHA) temporary labor camp standards at 29 CFR 1910.142.<sup>59</sup>*

Many comments pointed out this nuance, specifically asking Oregon OSHA to allow this other standard (or parts of it) for older housing.

One comment stated,

*... the federal Occupational Safety and Health Administration housing regulations do not apply to seasonal housing that was built before April 3, 1980. Instead, the Wage and Hour Division of the United States Department of Labor, which is responsible for conducting housing inspections under the Migrant and Seasonal Agricultural Worker Protection Act ("MSPA"), applies the Employment and Training Administration's ("ETA") agricultural housing regulations to MSPA-covered housing. (See 29 CFR 500.132, 20 CFR 654.400 et seq.) As indicated below, we suggest that OR-OSHA also apply the*

<sup>57</sup> D-25

<sup>58</sup> 29 CFR 1910.142(b)(2) and (b)(9)

<sup>59</sup> 20 CFR 654.401(a-b)

*ETA agricultural regulations to MSPA-covered housing built before April 3, 1980, where applicable.*<sup>60</sup>

Although the ETA has a grandfather provision, it is important to note that federal OSHA's standard does not have any recognition relating to the housing's date of construction, nor does it mention 40 square feet for bunk beds. Oregon OSHA is responsible to be at least as effective as federal OSHA, not to ETA. As such, adjusting the language to align with federal OSHA is appropriate.

Many commenters appeared to conflate striking the portion of the rule stating "built after August 1975" and "built after April 1980," which were remnants of a ceiling height rule that became outdated in 2018, with the ETA provision of 1980. Removing these sections has no relationship to grandfathering, as many asserted. This was simply removing an old trigger that was in effect until 2018. No net change on this section occurred, just the removal of outdated language.

However, Oregon OSHA also recognizes the unique situation that families face in agricultural housing in Oregon, and revised language for the adopted rule that considers the importance of keeping families with children 17 years old and younger together.

The rule for adoption adjusts the requirements for families, and that splitting up children 17 and younger is a greater hazard to these young occupants than the provision being the same as the federal standards. All other occupants without children will have the same requirements as federal OSHA of 50 square feet per occupant.

The delayed effective date for subsection (16)(k) was extended to allow more time for operators to comply with the amended provisions in subsection (16)(l). Oregon OSHA adopted a specific allowance for families with children. Specifically, as adopted, subsection (16)(l) requires that when both double bunks are used by the occupants and the sleeping room is occupied by only a single family with children who are all 17 years old and younger, the operator must provide at least 40 square feet per occupant. The requirements of subsection (16)(l) as adopted included a delayed effective date of Jan. 1, 2028, to provide operators time to comply with the requirement to provide 50 square feet per occupant, regardless of the use of bunk beds, including the limited family exception.

The use of triple bunks was already prohibited in Oregon OSHA's previous requirements. To maintain this prohibition and to provide clarity, Oregon OSHA revised language for the adopted rule by adding a standalone rule forbidding triple bunks in subsection (16)(m).

<sup>60</sup> D-194

## OAR 437-004-1120(16)(n), (16)(p), and (16)(q)

Oregon OSHA maintains the proposed language for the adopted rule in the amendments to subsections (16)(n), (16)(p), and (16)(q) after renumbering section (16) to accommodate the standalone provision of (16)(m) related to triple bunks.

The newly structured (16)(n) strikes language from the rule reflecting historical changes to ceiling height, which became outdated when the ceiling height change went into effect in 2018.

The amendments to subsection (16)(p) for adoption clarifies that air conditioning systems, such as window-mounted units, may substitute for openable window space as long as emergency egress is maintained in accordance with section (17) of OAR 437-004-1120. The purpose of this change is to clarify that safe egress from the housing is essential, regardless of the installation of various types of cooling mechanisms.

The amendments to (16)(q) add a mandate that cleaning products and other products used to eliminate rodents, insects, and animal parasites must be used in accordance with their label. This language for adoption is included to align with the safe use of chemicals in this and other Oregon OSHA rules.

## Fire and carbon monoxide protection

### OAR 437-004-1120(17)(c)

Oregon OSHA proposed language requiring a working approved carbon monoxide detector where workers sleep, while housing is occupied. Also, the title of this section was changed to address this inclusion.

The requirement in this proposal is similar to a current fire marshal rule<sup>61</sup> for carbon monoxide alarms in rental dwelling units and requirements in Oregon's Residential Landlord and Tenant Act.<sup>62</sup>

As discussed with various advisory members during the rulemaking process, compliance could be achieved through installing a battery-operated, plug-in, hardwired carbon monoxide detector or other equally effective methods. The purpose of Oregon OSHA adopting this provision is the known hazard of illness or even death from carbon monoxide poisoning – a colorless, odorless, and tasteless gas.

As discussed during the rulemaking process with various advisory members, this requirement is important, even when the housing does not include a source of carbon monoxide. Overall, this proposal was generally well received and Oregon OSHA maintains the proposed language for the adopted rule after including a delayed effective date of January 2026.

<sup>61</sup> OAR 837-047-0120(2)

<sup>62</sup> ORS 90.316

## Cooking facilities

Section 18 of the proposed rule would introduce a number of substantive changes to requirements for kitchens. These were previously numbered (18) Common use cooking and eating facilities and equipment, (19) Dining halls and equipment, and (20) Single unit cooking facilities. The proposed rule restructured and combined these sections into the newly named (18) Cooking and eating facilities and equipment. Some of the requirements in this section contain different effective dates.

### OAR 437-004-1120(18)(a)

The proposed rule strikes “common use” from the title of section (18), and requires all of the following subsections under (18)(a) only when those facilities are provided. As proposed, the requirements of subsection (18)(a) would be allowed until December 2026. However, in response to public comment, Oregon OSHA adjusted this date to December 2027.

Comments received generally fell into one of two categories: either the proposal did not go far enough, with several commenters objecting to the allowance of outdoor kitchens even when screened or enclosed, or the proposed rule would be too burdensome.

Oregon OSHA maintains that there is a safety and health justification for requiring kitchens in all housing and that it is necessary to sunset the provision that allows housing without cooking facilities. In response to public comment, and in recognition of the time needed to obtain permits and financing and to construct cooking facilities, Oregon OSHA adjusted this sunset date to December 2027. For the adopted rule, a note was also added below subsection (18)(a) to clarify requirements related to common-use cooking facilities.

Subsection (18)(a)(A) of the proposed rule lowered the required maximum temperature in refrigerators to 40 degrees Fahrenheit. Oregon OSHA maintains the proposed language for the adopted rule.

Subsection (18)(a)(B) proposed changing the required number of burners to two for every eight occupants, which would be effective Jan. 1, 2027.

One comment stated, “*There is no documented evidence to suggest that increasing this ratio will improve safety.*”<sup>63</sup> Another commented that this increase (and other rule provisions) would require a change to infrastructure, and that “*Being in compliance in such a short window is not a reasonable expectation.*”<sup>64</sup>

After considering public comment, Oregon OSHA maintains the proposed language for the adopted rule in this subsection as it relates to cooking burner ratios and the effective date. Specifically, for the adopted rule in (18)(a)(B), Oregon OSHA maintained the current burner ratio of 2:10 occupants until December 2027, as stated in subsection (18)(a).

<sup>63</sup> D-243

<sup>64</sup> D-34

Subsection (18)(a)(C) maintains an existing requirement to not use liquid petroleum gas tanks (such as propane) inside.

Subsection (18)(a)(D), as proposed, requires food preparation areas and storage, a portion of which must be protected. For the adopted rule, Oregon OSHA added a delayed effective date for subsection (18)(a)(D) of March 2025 for clarity and adopted requirements that are largely based on existing rule requirements, with a new specification that a portion of the food storage must be protected in subsection (18)(a)(D)(i). For the adopted rule language, there is a requirement that the food storage must serve the needs of the occupants, which is evaluated on a case-by-case basis.

As discussed with various advisory members during the rulemaking process, for those housing providers already providing kitchens, compliance with these changes could be achieved through replacing existing refrigerators (if necessary) and installing more electric or gas cooktops, or hot plates. In addition, various types of food storage could be purchased and installed, from free standing pantries to a variety of plastic totes.

Oregon OSHA remains committed to ensuring that housing locations are provided with a safe method to cook meals and recognizes the challenges faced with either updating housing to provide kitchens or upgrading existing kitchens to accommodate the needs of the occupants. It is Oregon OSHA position that these additions are necessary for the safety and health of the occupants, but that making these changes is substantial and that generally speaking more time is needed to come into compliance for this section.

After reviewing public comments, and considering where more clarity could be provided, Oregon OSHA maintains the proposed language for the adopted rule in the subsections of (18)(a)(E)-(L), but with minor adjustments. Subsection (18)(a)(F) revised language for the adopted rule to clarify that when provided, refrigerators and the required ratio of stoves or hot plates must always be in working condition.

### **OAR 437-004-1120(18)(b)**

The proposed rule changes to subsection (18)(b) included substantive improvements to cooking and food preparation facilities that contained a delayed effective date of January 2027. In addition to requiring the provision of cooking facilities the proposed rule changed the burner ratio from 2:10 occupants to 2:8 occupants, the proposed rule required protected food storage, plumbed sinks in or within reasonable distance to food preparation areas, and cooking facilities be in buildings or properly protected shelters.

As covered in (18)(a), previous ALH provisions did not require kitchens and, if provided, allowed them to be located outside unprotected. As discussed with various advisory members during the rulemaking process, a small percentage of housing sites do not provide cooking facilities (including some housing in hotels or motels). Employers for these sites often provide meals to workers or a per diem. During the RAG meetings, Oregon OSHA repeatedly heard from worker advocates that these meals or per diem are not effectively meeting occupants' needs.



Many comments supported the proposed rule, but stated that outdoor kitchens still allow for exposure to heat, smoke, and pesticides. Other comments stressed the financial burden of building facilities where none currently exist and the timeframe required to do so.

Oregon OSHA maintains that there is a safety and health justification for requiring kitchens at all housing sites. This provision allows occupants greater control over the type and quantity of food they and their families consume that best meets their personal, cultural, and health needs.

After reviewing public comments, Oregon OSHA maintains that the health benefits to having cooking facilities outweigh the challenges presented. However, in recognition of the time and resources required to update facilities, Oregon OSHA maintains the proposed language for the adopted rule, but adds a delayed effective date of Jan. 1, 2028, in subsection (18)(b).

Subsection (18)(b)(D) was amended and subsections (i) and (ii) were restructured for ease of reading.

Subsection (18)(b)(F), as proposed, would have required that beginning Jan. 1, 2027, plumbed sinks be installed in or near food preparation areas and that plumbed sinks in or adjacent to such areas would no longer count toward the specified handwashing facility ratio requirements. This provision is addressed in section (10) of the rule (Handwashing facilities), and the language remains in (18)(b)(F) as a reminder.

This provision drew a considerable number of comments. One commenter stated,

*Sinks: This is the most frustrating proposed rule in the fact that sinks rules are located in 2 locations of the rules. The federal is 1 sink per 6 occupants which is reasonable if all sinks that are available can be counted. Sinks adjacent to the toilet facility should be in a ratio of 1 toilet to 1 sink which is standard in most dormitories and commercial buildings. Sinks located near food prep areas are important, not only to keep people healthy but also happy with their living situation. If I am required to increase handwashing sinks only to comply, at my current capacity I will need to add 16 handwashing sinks to my housing. Cost of just the 16 sinks is around \$3,500, this does not include the added septic capacity. These sinks will have to be located at the toilet facilities so a compliance officer would count it as a handwashing sink. I would like to locate these sinks near the food prep area. This I feel is what the advocates really were asking for, having these hot and cold water sinks near where food is being prepped to reduce the chance of cross contamination. So I implore OR OSHA to reconsider the sink rules and allow all sinks to be counted to align with federal OSHA at the 1 to 6 ratio.<sup>65</sup>*

Another commenter stated,

<sup>65</sup> D-132



*OAR 437-004-1120(10)(a) and (18) would require separate sinks for handwashing and kitchen use, with an employer not being able to count a kitchen sink towards the section (10)(a) 1:6 sink to occupant ratio after January 1, 2027. Again, there is no good safety or health reason why a kitchen sink cannot reasonably be used for handwashing as well (and thus count towards a minimum number of sinks for handwashing). Both at home and at non-agricultural work, people very frequently use kitchen sinks to wash their hands in their day-to-day lives. Prohibiting the counting of a kitchen sink to establish a minimum number of handwashing sinks effectively ignores this reality without any basis in reason or common sense.<sup>66</sup>*

After reviewing public comments, Oregon OSHA revised language for the adopted rule that made amendments to (18)(b)(F) to clarify delayed effective dates for both the handwashing ratio and plumbed sink installation requirements. Specifically, the adopted rule specifies that plumbed sinks must be installed beginning Jan. 1, 2028, and that the exclusion of plumbed sinks in or adjacent to food preparation areas by the same effective date.

Subsections (18)(b)(G)-(I) maintained the proposed language for the adopted rule with the exception of the updated delayed effective date specified in subsection (18)(b).

Subsection (18)(b)(J) is revised for the adopted rule to clarify the disease reporting requirements of subsection (20)(b) of OAR 437-004-1120.

Subsection (18)(b)(L), as proposed, had a delayed effective date of January 2027. This provision required cooking facilities be in buildings or shelters or screened. Dozens of comments were received stating that the requirement to screen was overreaching and that Oregon OSHA should mirror the federal standard.<sup>67</sup>

A commenter stated,

*Kitchens: In 2017 we decided to move our kitchens outside so we could be in compliance with the last rule changes. It took our family a long time to decide how best to make that move. It was important to us to maintain the amount of people we could put in the housing and make the cooking outside comfortable for our employees. We did not want to just stick a stove outside. We redesigned the front of the cabins with better concert porches and extended the roof over the outside area. Then we half walled all the way around, to provide a wind and dust barrier. Leaving half the wall open for air movement and ventilation. To screen my kitchens the cost is approximately \$16,000.<sup>68</sup>*

Oregon OSHA recognizes the health and safety connection to indoor, or enclosed by screens, cooking facilities, including equipment and food preparation areas. Therefore, Oregon OSHA maintains the proposed language for the adopted rule, but in recognition of the challenges associated with construction, added a delayed effective date of January 2028.

<sup>66</sup> D-193

<sup>67</sup> Form email: Ag Housing Rules Will Devastate Family Farms

<sup>68</sup> D-132

## Disease reporting

### OAR 437-004-1120(20)

Oregon OSHA proposed changes to section (20) of the rule by updating an Oregon Health Authority (OHA) rule reference, and creating an appendix to OAR 437-004-1120. This appendix would include an updated list of specified infections (anthrax, cholera, hepatitis, HIV, etc.) required to be reported to the Oregon Health Authority under current rule.

Submitted comments questioned why Oregon OSHA would hold housing providers to the same standards as health care providers. One commenter said,

*In the most egregious example of OR-OSHA applying standards above the federal requirements, the disease reporting requirements in section 19 of the proposed housing rules require that ALH operators comply with Oregon Health Authority's' OAR 333-018-0000 and OAR 333-018-0015, which are standards of disease reporting for hospitals, ambulatory surgery centers, long-term care facilities, and other health care facilities. We are NOT medical professionals, nor do our employees live or work in health care facilities. And yet, OR-OSHA thinks it is reasonable to hold us to the same standards as medical professionals working in health care facilities. Are all employers and landlords across Oregon required to adhere to the same disease reporting requirements as hospitals, healthcare facilities and surgery centers? I ask again: **What is the justification for holding us to higher standards than federal OSHA and all other housing providers and employers across the state of Oregon?**<sup>69</sup>*

After reviewing public comments and the existing federal OSHA requirements, Oregon OSHA revised language for the adopted rule that requires less prescriptive requirements related to disease reporting to align with federal OSHA language. The adopted rule requires operators to immediately report to OHA or the local county health authority by phone, email, online form, or any other equally fast method, the following information under two specified scenarios.

Subsection (20)(a) requires operators to report the name and address of any person in the housing known to have or suspected of having a communicable disease. Subsection (20)(b) does not require that the name and address be included in the notification; however, it does require notification of the existence of a case of suspected case of food poisoning, or the unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom. Oregon OSHA maintains that the adopted requirements reflect the importance of disease reporting to maintain the health of occupants of employer-provided housing.

<sup>69</sup> D-34

## Heat Illness prevention

Oregon OSHA proposed substantive changes to this section of the rule, which would have a delayed effective date and take effect after some existing heat illness requirements sunset on Dec. 31, 2025. Specifically, two provisions were introduced.

Subsection (23)(c), as proposed, required that beginning Jan. 1, 2026, all sleeping rooms be able to be maintained at 78 degrees Fahrenheit or less whenever the heat index outside is between 80 degrees Fahrenheit and 94 degrees Fahrenheit.

Subsection (23)(d), as proposed, required that, also beginning Jan. 1, 2026, all sleeping rooms be able to be maintained at least 15 degrees Fahrenheit less than the outdoor temperature whenever the outdoor heat index is 95 degrees Fahrenheit or above.

As discussed with various advisory members during the rulemaking process, these could be achieved through the installation and use of window or wall air conditioning units or evaporative coolers. Although not required by the rule, some housing providers may choose to install better insulation, drywall, or clad-wrapping to help keep temperatures cool inside. Some employers may need to update or improve electrical systems to account for the increase in electricity demand.

Oregon OSHA received a significant number of comments on this proposed rule. Many comments supporting the proposal also expressed disappointment that the rule only requires maintaining sleeping rooms 15 degrees lower than the outdoor heat, especially in regions with high summer temperatures.

One comment stated,

*We are disappointed, however, that the proposed rule allows for maintenance of sleeping rooms and living areas at temperatures only 15 degrees lower than outdoor heat when the heat index is at or above 95 degrees Fahrenheit. In areas of Oregon that regularly see temperatures at or above 105 degrees during the summer, the proposed regulations would allow the maintenance of sleeping areas at 90 degrees Fahrenheit. Temperatures in this range for prolonged periods are not tolerable and adversely affect the health of farmworkers and their children, increasing the likelihood of heat illness and resulting in worse productivity.<sup>70</sup>*

Others discussed the importance of insulation. One comment stated,

*As extreme heat events increase, adequate insulation is essential to protect the health, comfort, and productivity of Oregon's farmworkers, who are highly vulnerable to extreme temperatures due to the nature of their work and the quality of their housing.<sup>71</sup>*

<sup>70</sup> D-183

<sup>71</sup> D-232

While insulation is not expressly required by the proposed rule, an increase in insulation could help to ensure compliance with this section of the rule, both in cooler areas of the state where it may be possible to comply without air conditioning (for example, coastal regions) or where heat is regularly high, which could strain an air conditioning system.

Oregon OSHA recognizes the importance of requiring heat illness prevention, in particular when the occupants in the housing have been exposed to heat throughout the day and the need for cool spaces to recover is essential. In 2022, Oregon OSHA adopted heat illness prevention rules in labor housing with the understanding that it was a start and that the long-term objective was to get cooled spaces in the areas where occupants sleep. This rule achieves the overall intent to provide cooled areas where occupants sleep to recover from the heat of the day.

Oregon OSHA also recognizes the concern that limiting the required reduction of heat to 15 degrees Fahrenheit when it is more than 95 degrees Fahrenheit outside may not be ideal. However, available information from numerous heating, ventilation, and cooling experts indicate that consistent reductions of temperatures above this are unrealistic, especially when it is above 95 degrees Fahrenheit. Generally speaking, cooling systems are often incapable of consistently reducing indoor temperatures more than 15 to 20 degrees Fahrenheit once the heat index reaches beyond 95 degrees Fahrenheit.

After reviewing public comments, Oregon OSHA maintains the proposed language for the adopted rule in section (23), with the exception of the expiration dates in subsections (23)(a) and (23)(b) and delayed effective dates in subsections (23)(c) and (23)(d). Subsections (23)(a) and (23)(b) sunset Dec. 31, 2026, and subsections (23)(c) and (23)(d) contain a delayed effective date of Jan. 1, 2027, in order to provide employers and operators more time to come into compliance with the new rule requirements.

## Timelines

Considerable comments were received about timelines for implementation of the various provisions. The following table was produced to illustrate the changes from proposal to adoption.

Rule change	Timeline as proposed	Timeline as adopted
Remove exception that housing provided for nonfood crops were not required to register (current registration applies only to crops harvested for food)	January 2025	January 2026
Submit water testing results to Oregon OSHA with annual registration application (no current requirement)	January 2025	January 2026
Require sites in initial registration to have no hazardous conditions (registration is currently provided when site is substantially in-compliance)	January 2025	March 31, 2025
Provide adequate exterior/walkway lighting to facilities (current requirement vague)	January 2025	March 31, 2025
Require secure storage of hazardous materials (no requirements in labor housing)	January 2025	March 31, 2025
Require product use according to label (no specific requirement in labor housing)	January 2025	March 31, 2025
Require structures to be free from nuisance materials	January 2025	March 31, 2025

(current requirement is specific to food waste and water hydrants)		
Remove livestock care exception (housing can currently be within 500 feet if occupants are tending or working with the livestock in question)	January 2026	January 2028 (note substantive change to rule proposal – adds carveout for housing that meets specific criteria)
Provide tubs and trays for laundry at 1:25 ratio, or 1:30 ratio if laundry machines are provided (currently ratio for tubs and trays is 1:30)	January 2026	No change
Provide separate method for cleaning contaminated clothes from other clothes (no current requirements in labor housing)	January 2026	No change
Post water testing results in language of occupants or pictograms (no current requirement)	January 2025	January 2026
Adds initial arsenic testing and annual nitrates testing to well water testing frequency for all wells provided as part of employee housing (no current requirement)	January 2025	January 2026
Make sure potable water requirements do not include requirements for other rules – heat illness/sanitation (no current requirement)	January 2025	March 31, 2025
Provide locking shower stalls (no current requirement)	January 2026	January 2028

Provide a private changing room for a shower area (no current requirement)	January 2027	January 2028
Provide a handwashing facility with paper towels adjacent or a reasonable distance to portable or chemical toilets (handwashing requirements are currently ambiguous for these specific types of toilets)	January 2025	March 31, 2025
Provide solid doors for toilets (solid door not required, curtains are allowed)	January 2025	January 2027
Locate privies (e.g., an outhouse) more than 200 feet from facilities (currently 100 feet from food or living area)	January 2026	No change
Do not count privies toward toilet ratios (currently counted in toilet ratios)	January 2026	No change
Require a 1:10 toilet ratio for each gender, no less than two toilets if more than two of the same gender (current ratio is 1:15 for each gender with no minimum)	January 2026	January 2027
Provide protected food storage area (no current requirement)	January 2025 when provided	March 31, 2025 when provided
	Jan. 2027 kitchens required	Jan. 2028 kitchens required
When provided, refrigerators capable of maintaining 40 degrees (currently 41 degrees)	January 2025	March 31, 2025



Provide 2 cook burners per 8 occupants or 2 family units, whichever is more (current ratio is 2:10)	January 2025	January 2028
Explicitly require gas burners to vent outside (building codes apply, but this protection not explicitly listed)	January 2026	January 2027
Provide kitchens that are enclosed/ indoors or screened (kitchens are not currently required; when provided, certain provisions apply, but can be outside with no shelter or screen enclosures)	January 2027	January 2028
Provide plumbed sinks with hot and cold water near food preparation area (no current requirement)	January 2027	January 2028
Do not count kitchen sinks toward sink requirements in handwashing (sinks in toilet rooms and kitchens all currently count toward the same ratio)	January 2027	January 2028
Remove cots as an allowable bed type	January 2025	January 2026
Require mattresses to be 4 inches thick (currently, any mattress thickness or more than two-inch foam pad is allowed)	January 2025	January 2026
Ban fumigation with pesticides as a mechanism to clean mattresses (fumigating the mattress)	January 2025	January 2026

with pesticides is currently an option to clean)		
Provide cleanable mattress covers (can currently fumigate uncovered pads or provide cleanable pad covers)	January 2025	March 31, 2025
Must not require workers to sleep in same bed if that is not their preference (currently silent on the topic)	January 2025	March 31, 2025
Add safe access to the top bunk such as ladders or stairs (no current requirement)	January 2025	January 2026
Install carbon monoxide detectors (no current requirement)	January 2025	January 2026
Ensure forks, driveways, buildings, and housing units are properly marked (no current requirement)	January 2025	January 2026
Use chemicals in accordance with label for insect/rodent control (other generic rules apply, but not in housing)	January 2025	January 2026
Add “structurally sound” to existing housing requirement language (housing must currently be safe and in good repair)	January 2025	March 31, 2025
Align disease reporting with the Oregon Health Authority (currently aligned with disease reporting)	January 2025	March 31, 2025 (note substantive change to rule proposal)

requirements in effect before 2008)		
Notify of the availability of a space heater (no current requirement)	January 2025	March 31, 2025
Expand the list of what growers cannot charge occupants to include toilet paper, soap, laundry facilities, and cool water (pay-per-use toilets, pay-per use bathing facilities, or any other method of paying for individual service requirements are currently prohibited)	January 2025	March 31, 2025
Maintain indoor temperature of 78 degrees in all sleeping areas when 80 degrees outside, or 15 degrees below outside temperature if at or above 95 degrees (cooling area for 50 percent of housing occupants is currently required)	January 2026	January 2027
Provide one electrical outlet per occupant in sleeping areas (current requirement is one outlet in living area, regardless of number of occupants)	January 2026	January 2027
Provide 21 cubic feet of storage for each occupant or family unit (storage allowance currently not specified; "suitable" only)	January 2026	January 2026 (note substantive change (15 cubic feet) to rule proposal)
Provide lockable storage for personal effects (no current	January 2026	No change

lockable storage requirements)		
Provide at least 50 square feet per bed in sleeping rooms with bunk beds (currently 40 square feet)	January 2027	January 2028 (note substantive change to proposal – adds carveout for 40 square feet for families using bunks)

## Division 2

Oregon OSHA revised language for the adopted rule, which includes amendments to OAR 437-002-0142, requirements for Labor Camps. The title of this rule was amended to “Labor Housing” to align with Division 4 OAR 437-004-1120’s language that eliminates the use of the word “camp.”

The Division 2 rule, OAR 437-002-0142, requires that employers outside of Division 4 (Agriculture) must follow the provisions in the ALH standard, with the exception of the three subsections listed in the Division 2 rule: (5) Housing Registration Requirements, (6)(p) relating to facility markings, and (22) Closure and Alternative Housing.

## Conclusion

Ultimately, Oregon OSHA must make a decision on whether to adopt the rule as proposed, adopt a modified version of the rule, or withdraw the proposed rule. These same options exist in relation to each specific provision of the rule. Oregon OSHA has made its decision by considering the record and determining whether each provision is warranted by the circumstances reflected in the record, it is designed to appropriately serve that purpose, and the workers and employers of Oregon will be better served by the rule provision or by its absence.

In evaluating the record, Oregon OSHA faced a large number of comments that are, for various reasons, outside the scope of this rulemaking. Oregon OSHA acknowledges those comments and has, in many cases, addressed them to a certain degree. However, the agency’s determination in the context of this rulemaking must be whether the public interest is best served if the proposal and each of its individual provisions are adopted, improved through minor adjustments, or withdrawn.

Oregon OSHA is conscious of the wide range of opinions expressed in relation to this rule. Oregon OSHA recognizes that there were divergent views during the various stakeholder meetings and that many different issues were thoroughly discussed. In evaluating the rule, Oregon OSHA is aware that all regulation imposes a burden. Determining how best to balance that burden against the benefits the rule will accrue is the challenge whenever a regulation is developed, in any industry, and in relation to any issue.

Oregon OSHA has considered the distinct approaches recommended by those who commented. Considering the record in its totality, and having evaluated the arguments made by all the commenters in the extensive rulemaking record, the rule is both reasonable and practical and that:

- The rule provides a greater measure of protection and greater flexibility to employers that is superior to the federal rule adopted by federal OSHA.
- The rule will provide greater and more meaningful protections to occupants than the rule currently in place.

Therefore, Oregon OSHA has adopted the rule, with the modifications discussed previously.