

Oregon OSHA
Ag Labor Housing Advisory Committee
Thursday, May 23, 2019

Meeting Minutes

Attendees:

Alba Johnston	Jason Moore	Renée Stapleton
Adam McCarthy	Jeff Carlson	Ryan Vaughn
Ann Gillette	John	Sherry Marks
Bill Anderson	Kay Erickson	Stacey Cooper
Dana Meyer	Laurie Hoefer	Taylor Atkinson
David Tommen	Mike Doke	
Dave McLaughlin	Mike Omeg	
Erin Robe	Nargess Shadbeh	
Heather Case	Nick Anderson	

Attendees by Phone:

Kate Suisman
Janet Fults
Mike Haney
Ana Molina
Samantha Bear

The meeting was called to order by Jeff Carlson at 9:00AM
Self-introductions were made.

Jeff Carlson welcomed everyone to the meeting. This meeting is a discussion to see where Oregon OSHA wants to go in the rulemaking process.

The group went through the handout: "ALH Discussion Items and Applicable Division 4 Subdivision J Rules." This handout was created from the November 30, 2018 meeting, where attendees identified parts of the existing Agricultural Labor Housing (ALH) rules that they would potentially like to address in the rulemaking process.

Jeff also provided the group with a print out of rule 437-004-1120- Agricultural Labor Housing and Related Facilities

Discussion Points:

#1: Location of agricultural labor housing facilities adjacent to the Application Exclusion Zone (AEZ) during spraying operations

Renée reminded the group that the location of housing was outside the scope of the previous AEZ rulemaking. The group clarified that this may be a discussion around the presence of new housing, not moving or removing existing housing.

The group discussed the impact of restricting where new housing could be placed, particularly in the Hood River and Wasco County area. Larger impact on small growers because they have less land.

The group also discussed how many people get exposed to pesticides per year in the housing versus the economic impact to the state and employers. The group acknowledged that these numbers would not necessarily be available due to the growers not having been through one season with the AEZ rules in effect to determine continued exposure.

Renée reminded the group that these meetings are really a brainstorming session regarding what can be changed or clarified in the rules. The group asked if rules could be repealed, and Renée answered that there were considerations as a state plan program to be made, but that is not off the table.

The group discussed some topics from the previous AEZ rulemaking, and the sensitivity to trees having to be removed from land for any reason. Shelter in place allowances in that rule were reached due to that consideration. The group discussed giving notice to people with new construction, and not advocating to take out housing as is. The group remarked that these are statewide rules, and other places may have more opportunity than the Hood River area to space out spraying from housing more. Or the group could look to other effective methods, like hedges or barriers.

The group discussed limbs hanging over houses and trees in proximity to housing. Usually these are early harvest fruits that can be sprayed and harvested before workers move in to housing due to food safety rules. The group also discussed the idea that not having housing available was not an option, due to development limitations within small growth areas.

The group discussed reasonable decision-making regarding spraying, and the use of predictable drafts and down drafts growers can take advantage of while spraying. The group continued to discuss some parts of the previous AEZ rulemaking regarding footage boundaries and enclosed agricultural structures, which is not defined currently in the ALH rules.

The group discussed potentially adding looking at the definition of an enclosed agricultural structure in terms of ALH rule- added to discussion item #14.

The group emphasized preserving jobs and the limited space available for most growers. The group discussed housing trends over the past 20 years as well as alternative models for viable housing. The group also discussed worker housing standards in relation to normal landlord/tenant and hotel rules, as well as building codes, and the role of the labor market in shifting housing standards. Some in the group provided examples of building new housing and stated they did not find inconsistencies at this time between OSHA rules and building codes- different rules, yes- but not inconsistent rules. Some in the group stated that it is not the place of Oregon OSHA to say where agricultural labor housing should go. Others in the group pointed out that current land use rules do not account for health issues or chronic exposure of workers because that is not what they are for. The group also discussed the need for predictability within the rules.

The group continued to discuss if pesticide exposure was a problem among workers. The group discussed studies that existed and what those studies are saying. The group agreed that growers are not out to hurt employees, and often growers spend significant amounts of their budget on labor housing. The group discussed the dichotomy between growers advocating and communicating with their workers, and workers' discussions with other advocacy groups.

The group also discussed the current conditions of housing, with accompanying pictures a grower provided of a few of their housing units. Some in the group discussed that they may make improvements to their housing, but that it should not be regulated.

#2: Enclosed spaces for bathrooms, kitchens, and stoves.

The group discussed the requirement of fire resistant material and asked if this pertained to living areas, it was clarified that this was for heating stove in this area, not cooking stove.

The group recommended that a definition for fuel be provided in this area, or an exception for liquid petroleum gas (LPG) be provided within these rules, as that is often used for water heaters, etc.

The group discussed studio apartments and the cook, eat, sleep standards and different requirements of those.

The group recommended a definition of “common” or “common use” as that is confusing for employers, even when attempted clarification was provided in a question and answer document from the agency. Maybe within a note.

The group discussed dining halls and equipment and the concept of separation with a boor between the bedrooms and the kitchen, and what type of door qualifies, and what counts as a door (curtain doesn't count, fabric accordion doors do not count).

Action Item: Some in the group asked for Oregon OSHA to do research into the history of this rule and find out when this requirement came about- as this seemed to happen without notice.

Definition of privacy- The group stated that the rules should include some idea or definition of what privacy means, and that should involve asking the tenants of this housing.

The group discussed single unit cooking facilities- and whether or not a sink was required, currently not, and the group stated that this may need to be deferred to following building codes rules and having a sink “close” to cooking facilities.

#3: Bathrooms- Current port a potty, outhouse, pit toilet, and privy rules.

The groups discussed again the need in this part of the rule for a definition of privacy.

The group also discussed H2A rules stating light has to be inside the bathroom, and the potential of hearing in the area to keep within 68 degrees.

The group was reminded that in Oregon, if housing is compliant with Oregon OSHA requirements, it is in compliance with H2A requirements.

The group discussed removing the gender requirement for numbers of bathrooms when bathrooms are single use, if they are able to be secured.

#4: Stoves and cookware outside.

The group clarified this is for totally common use outside, perhaps for camps also that put an outdoor sheltered kitchen outside a cabin. The group discussed potentially addressing clarification of single use cooking- or use between a couple of cabins versus the whole camp. There is an interpretation at this time that says outside stoves are now a common use kitchen.

The group suggested a question and answer segment addressing (18)(E)- “A table and chairs or equivalent seating and eating arrangements to accommodate the number of occupants living in the sleeping space.”, to identify if this means the seating has to be such to accommodate everyone in the camp eating at one time, as this rarely happens.

#5: Laundry equipment and ratios.

Action Item: Jeff stated he will continue to research what is expected in other industries

The group discussed the fact that portable and chemical toilets count toward the number of toilets required in ratio to the occupants. And whether or not that is something that should be counted. The group discussed potential fear of use among young and vulnerable members of the population, as well as the cost for taking out more land for more septic system use. This may also be solved by relying more on lighting requirements. Growers provided input that few/no pit toilets are used in the Hood River area.

The group also discussed potentially differentiating housing rules based on seasonal versus full time housing. Spending the money to comply with these rules for only short stay housing can be problematic.

The group discussed that potentially defining what is seasonal would be hard.

The group also discussed as an alternative to not counting chemical toilets towards the ratio of having at least one flush toilet and potentially defining what is a portable restroom.

#5 Laundry equipment and ratios.

The group would like to add a definition for “slop sink”

#6: Kitchen utensils and storage.

No comments at this time

#7: Drinking water rules.

The group discussed HB 2860, which is currently in the legislature, which will increase time between testing. However, due to the legislative process, the group emphasized that ALH rulemaking should not rely on the potential passage of this bill.

The group discussed increased time between testing if the water tests clean. The group suggested that they should watch continuing county research of water quality, but also discussed that requirements shouldn't be more stringent than a landlord/tenant situation.

The group also discussed the addition of a posting requirement- maybe posting “potable/tested” on good to drink water, however the group also thought this may create confusion due to the amount of non-potable water that also has to be labelled on the property. The group also discussed that the posting of water results is unique to the agriculture industry, although clean water requirements do exist among other divisions.

The group also discussed a solution of discussing the safety of water through camp safety committees.

The group also discussed the use of bottled water among workers, both in camps and outside apartments.

#8: Hot in living areas/air conditioner.

The group discussed paragraph (16)(e). The requirement for screen doors does not work for dormitory areas. Due to fire code, they cannot have a screen door on a door that exits outward, but they have to have a fire door in a dorm structure. One cannot put a window in the dorm door either.

The group suggested potentially adding an exception to the screen door requirement for dorms.

At this time, due to time constraints, Jeff asked the group to bring up items they wished to discuss with the rest of the time.

#12: Shower ratios/privacy.

The group brought up an issue about common facilities with shower heads inside of them not having an area for people to change out of their clothes. Maybe adding partitions and curtains within the area?

Or a recommendation of a place for people to change for community showers rather than a rule. The group also discussed maybe the potential for regulating the distance between shower heads.

Jeff asked the group to send any other comments on the discussion items to him via email. The group discussed that harvest time was upcoming, and Oregon OSHA would like to have draft language to present to the group at the time of the next meeting.

Action Items:

- Send comments to Jeff Carlson.
- Oregon OSHA representatives will draft pre-proposal language to present at the next meeting.
- Jeff will continue to research what is expected in terms of laundry facilities in other industries.
- Oregon OSHA will do research into the history of 437-004-1120(18)(d) door requirements to separate between bedrooms and kitchens rule and find out when this requirement came about.

Next Meeting:

TBD – Sometime in October or November 2019

Location: To be Determined