



Department of Consumer  
and Business Services

## **Agricultural Labor Housing Rule Advisory Committee for OAR 437-004-1120 Minutes November 17, 2021**

### *Attendees:*

Sarah Rew, Julie Love, Mike Omega, Nicole Mann, Adam McCarthy, Martha Sonato, Carlos Fernandes, Kate Suisman, Nargess Shadbeh, Jenny Dresler, Lisa Rogers, Gary Robertson, Alta Schafer, Stacey, Dora Totoian, Taylor Atkinson, Shannon O'Fallon, Matt Borman, Elizabeth Remley, Mike Doke, Theodore Bunch, Kate Ryan, Laurie Hoefler, Jon Laraway, Brian Clarke, Dave McLaughlin, Bill, Erin Roby

Sarah Rew started the meeting and introductions were made.

### **Discussion**

Question in chat about reporter being present and members feeling like they may not be able to speak freely. Opinion that this is not an open meeting. It is an advisory meeting, not a public meeting. A. This is a public forum. Comments can also be submitted in written form. As a public agency, all of our information is public with a very small list of items that cannot be public.

With so much to cover, comments can be submitted to Oregon OSHA outside of the meeting.

### **Draft language (written comments received prior to meeting)**

- Comment. Add forestry labor contractor to the application of the rule.
- A. We do have forestry rules and look at those to see if they are strong enough.
  
- Comment. Clarification in the first paragraph about who these rules apply to.
- Comment. Sub paragraph C: Manufactured dwellings and homes must comply with specifications in certain ORSs.
  
- Comment. Certain rules referenced do not exist.
- A. There was a rule number change that needs to be reflected in Oregon OSHA rules.
  
- Question. Are words "workers" vs "employees" interchangeable?
- Comment. Regarding rule exceptions for motels/hotels, employers don't have control of things in hotels/motels.
- Comment on RV parks and RVs.
- A. There are often multiple agencies that govern an item. For example, RVs would be subject to rules of the RV park. If used for housing, they would be subject to Oregon OSHA ALH rules.

- Comment. Clarify that operators/owners may not charge for anything such as soap.
- Comment. Request to add a definition of "adequate."
- Comment. Request to define air conditioning as a system capable of keeping a living area at least 78 degrees or below when the outside temperature is 80 degrees.
- Comment. Request to discuss definition of committed relationship.
- Comment. Suggestion to clarify that hot water should be 110 and 120 degrees.
- Comment. Better define "housing unit."
- Comment. Better define "immediate family."
- Question. How many manufactured homes in ag labor housing exist?
- Comment. Suggestion for minor edit to manufactured home structure.
- Comment. Suggestion that outhouses, privies, or portable toilets not count toward total number of toilets.
- Comment. Better define "sanitary."
- Comment. Suggestion to keep toilet facilities warm or cool depending on outside temperature.
- Comment. Suggestion that toilet facilities be well lit and have plumbed hot and cold water for every two toilets.
- Comment. Suggestion that an exhaust fan must be in use at all times.
- Comment. Clarification on what an agricultural worker means.
- Comment. Exemption does not match the reality of what is in ag labor housing. Registration requirements mentioned.
- Comment. Suggestion to require operators to register housing at least 60 days before occupancy.
- A. That gets complicated with year round housing which will be discussed.
- Question. What does "in compliance" mean vs "substantially in compliance"? Question of whether this is appropriate.
- A. For H2A workers, housing must be in compliance whereas non H2A housing must be substantially in compliance.
- Question of when a new housing inspection is required. What is a substantial change?
- Comment. Suggestion that operators submit videos or photos to Oregon OSHA.
- Comment. Operator should specify the distance of pesticides to housing.
- Comment. Operator should detail how to maintain the [housing] temperature to 78 degrees when it is 80 degrees or over.
- Comment. Suggest operators certify that the electrical panels are in compliance with up to date code.
- Comment. Suggest the registration certificate include the year the housing was built and any renovations. Display water testing results and other inspection results.
- Comment. Clarification requested of when registration may be revoked. State that if the operator retaliates against the worker's right to complain or report health/safety issues, they lose their registration.
- Comment. Suggestion of slight changes to rule regarding the right to protest the registration.
- Comment. Suggestion that the rule says grounds must be free from waste, water, sewage, garbage, etc. Suggestion on water that stagnates.
- Comment. Suggestion to not allow housing to be near or subject to anything that would create offensive odors, noises, or other such hazards.

- Comment. Suggestion that new housing constructed or substantially remodeled after 1/2023 be at least 1000 feet away from field crops.
- Comment. Suggestion at least 300 feet away from the storage of toxic pesticides or chemicals.
- Comment. Suggestion that starting in 2026 don't allow ALH within 300 feet of fields where certain pesticides are being applied. Make the rule more stringent in 2028 to 500 feet. In 2031, move to 1000 feet.
- Comment. Suggestion to require operators to demonstrate their measures to reduce drift and exposure to smoke and fire.
- Comment. Suggestion to increase the standoff distance between the house and grass/weeds/brush. Increase from 30 feet to 100 feet.
- Comments on site drainage.
- Comments on food waste and wastewater.
- Comment. Suggestion for housing to require a recreation area. Response that this is outside the scope of Oregon OSHA.
- Comment. Suggestion to store toxic materials and pesticides in a locked place, 300 feet from housing. Keep areas around pesticides clear of brush. Not leaving empty containers around.
- Comment. Suggestion to prevent the breeding of flies and rodents within 200 feet of housing.
- Comment. Suggestion to not house workers within 500 feet of livestock.
- Comment. Clarification on electrical -- how powerful it needs to be. Strong enough to support AC units, refrigerators, electrical outlets. Include more electrical outlets.
- Comment. Suggestion to require housing to be up to date with current code.
- Comment. Suggestion to add extra lighting at pathways and common use areas. Have better lighting/markings so emergency vehicles can access more easily.
- Comment. Suggest increasing PSI from 15 to 40. Additional note that this will have a fiscal impact.
- Comment. Suggest that operators increase water testing to before occupancy and once during occupancy or as often as needed to ensure a good supply.
- Comment. Suggest increasing water supply with adequate hot and cold to at least 100 gallons per occupant per day.
- Comment. Suggestion to strike the provision that you can keep potable water within 100 feet of each unit.
- Question. Are fountains the most appropriate?
- Comment. Suggestion to increase potable hot/water to 1:5 occupants.
- Comment. Suggestion for units built after 1/2023, regarding cooking burners, plumbed sinks, banning use of propane or gas stoves that don't have exhaust fans.
- Comment. Suggestion to enclose all cooking areas.
- Comment. Suggestion to no longer allow portable water containers. Instead require plumbed hot/cold running water.
- Comment. Suggestion to require plumbed hot/cold water in toilet facilities.
- Comment. Suggestion to require a working exhaust fan in all toilet facilities. Keep temperature at 68 degrees.
- Comment. Mention of bathing facilities, waste water -- providing fans. Suggestion to increase shower stalls to 1:5.
- Comment. Suggestion not to allow all gender / unisex rooms unless there is truly "good" privacy.
- Comment. Suggestion to provide private, locking dressing room.
- Comment. Clarification on sinks for food preparation.
- Comment. Clarification not to use common use towels.

- Comment. Suggestion on laundry to reduce ratio.
- Comment. Clarification if slop sink / utility sink is still required if there is a washer/dryer.
- Comment. Suggestion to not count portable toilets.
- Comment. Suggestion that toilets have hot and cold running water.
- Comment. Suggestion to add one sink for every two toilets.
- Comment. Suggestion to change ratio to 1:8.
- Comment. Suggestion to ventilate toilet rooms with at least five air exchanges per hour.
- Question. What constitutes privacy in toilets? Locking needs?

### **Questions/comments during meeting**

- Comment. Member: This list would be cost prohibitive to growers. This would reduce on-farm housing.
- Oregon OSHA will be sending out a new fiscal impact survey on heat today after this meeting.
- Comment. Member: Square footage per person is a central issue. These are items that we have talked about for years. We believe this list of items protects workers against risk, heat, smoke, drift, Covid and other diseases. Both workers and growers benefit.
- Comment. Request for extension on responding to the fiscal survey.
- A. This will be discussed internally.
- Comment. If I lose 6.5 acres (300 feet) of farmland, I can't do it. If this rule goes into effect, it isn't feasible for many farmers in Wasco County. If portable toilets are outlawed, they would need to be for other uses too (fairs, etc.). Clarified that water testing is for wells, not public systems. Registration 60-day rule, assume that is new registration and not a renewal of an existing camp?
- A. These comments were presented to Oregon OSHA at this point.
- Comment. I understand the cost constraints, but we are talking about people's lives and safety. There are options that can be considered with programs that assist in community-based housing.
- Question. Are workers required to pay rent and utilities at this housing?
- A. Yes, and a lot of it comes from USDA and rental assistance. They pay no more than 30% of their income toward housing costs. Workers will choose this if they can.
- Comment. We do have an option trying to provide community-based housing. In on-farm housing, most of us do not charge anything to workers for utilities or the cost of the housing itself. Higher cost for workers to get to work. Spent over \$500k to bring housing up to 2018 rules and AEZ standards for 7 employees. Money could instead be used for equipment to improve the safety and health of employees.
- Comment. Regarding poisoning, EPA has a system and requirements in place for use of pesticides.
- Comment. We don't rebuild our own houses every time the code changes.
- Comment. Preventing fire drift, smoke is not possible for any of us.
- Comment. Five years ago during AEZ rulemaking, we compromised on steps taken and waited to discuss other issues. We would now like to talk about structural issues/needs of the housing, that workers use portable toilets, outdoor sinks, mixed use sinks, outdoor cooking burners.
- Question to committee. Is there a structural suggestion that would not be feasible? Feedback requested on providing 100 square feet per occupant. Feedback requested on stricter regulations eliminating onsite housing. Does area of the state make it more or less feasible?
- Question. If new housing was built to current standards, what would make it unsafe for occupants? Housing we built five years ago that seemed state of the art at the time, would

probably not pass now and I don't know why. Examples, feet away from the orchard, electrical codes, pandemic standards.

- Comment. If there are substandard camps, bring those operators up to the codes they should be operating at instead of changing them for everyone.
- Comments. Suggestion to have hot/cold plumbed near where people are cooking. Asking that pit/portable toilets are not counted toward required toilets. Do not count mixed use sinks as meeting the same requirements. Have enough water pressure so that sinks, showers, laundry can be used at the same time. Have a separate play area for kids that is not in the parking lot. Have AC in the housing so that workers can be rested for the next day. This is also about dignity of workers.
- Comment. These issues are not accurate to housing.
- Comment. We are willing to create a list with grower input of what is and isn't feasible in regards to housing structure.
- Comment. We are arguing against feet (distance) that would reduce my farm. We are not arguing about sinks, kitchens.

Meeting Adjourned