

Oregon OSHA – ALH RAC

Employer Representative meeting

May 25, 2022

8:30 a.m.

Attendees: Sarah Rew, Dave McLaughlin, Gary Robertson, Tomas Schwabe, Greig Lowell, Jennifer Flood, Kate Ryan, Jenny Dressler, Nicole Mann, Ann Billette, Matt Borman, Carlton Davidson, Jeff Stone, Varon Blackburn, Erin Roby, Mike Omeg, Stacey Cooper, 3 unnamed callers

- 1. Recap from last meeting:** rule exemptions OAR 437-004-1120(2)(a-c)
- 2. Governor’s task force on ALH:** no current updates
- 3. Introduction:** Greig Lowell, Acting Policy Manager
- 4. Heat Illness Prevention in Labor Housing:** OAR 437-004-1120(25)(a-e)

The group discussed compliance with this new rule (adopted 5/9/2022, effective 6/15/2022).

Questions: When do you measure and how do you determine if the room is cool enough? Is there going to be an interpretation for how to measure keeping the room at or below 78 degrees Fahrenheit, and what other means would be acceptable? In the Columbia River Gorge there is a wide variation of temperature depending on time of day. There can be a difference of 40 degrees Fahrenheit or more.

Oregon OSHA: It’s anytime day or night.

Jeff Stone: I don’t think the department has any idea what the fiscal impact truly will be then ... we need to be clear about how we communicate so that if someone comes and inspects they are clear what the rule is.

Erin Roby: Any guidance on the distance to housing the shade needs to be? My issue for doing outdoor tents or shade is the wind in the gorge ... I was already providing window A/C units, but I’m super concerned with the 78

degrees ... you feel like you are trying to do the right thing and provide window units in each bedroom unit ... and I don't know if it can maintain 78 degrees ...

Mike Omeg: The wind in the gorge is the real deal. It prevents us from using anything you could order from Home Depot or Amazon. Those would only last until the wind came up. This limits us to permanent structures only. Obviously the cost is an order of magnitude more. You have permitting, the Gorge Commission impacts, all which make this more expensive.

Matt Borman: Is the intent that outdoor shaded areas also get to 78 degrees? In southern Oregon that would not be an option.

Sarah Rew: No; the rule says the outdoor rest area must be shaded, and provide misters, or towels, etc. So shade and a cooling mechanism or sorts.

Mike Omeg: Where we are housing so many people, cooling towels aren't a practical option for Orchard View ... if we were housing 1,000 occupants in our facility, and there was a heat-dome with 5 days of heat – that would be trailer loads of towels, and a team to distribute them, then pick them up, and wash them (because rule language says they can't be shared without being washed).

Dave McLaughlin: the rule is not specific with regards to who exactly does the washing; though cooling towels aren't required, they are only one option.

Nicole Mann: If an employer does decided to use cooling towels, and hands them out in the morning ... is it then on the employer to collect them that night and ensure they are washed before being used the next day?

Sarah Rew: This portion of the rule is applicable to housing, so this would apply more to those coming home from a shift. You bring up an important issue of who does the washing and how to ensure they aren't shared. The enforcement of this (both from an employer perspective and our perspective) gets complicated. We will bring these questions up to management.

Would anyone even consider cooling vests?

Erin Roby: I would not because of all the issues Mike brought up with towels (they'd apply to vests as well). Plus there is the issue of providing continual ice packs.

Mike Omeg: re: the use of misters - many of the wells in our area have hard water and are high in dissolved minerals, in particular bicarbonates and in our experience with trying to use misters – they just get clogged up.

Erin Roby: we'd like clarification about a note in the heat rule (at work – not in housing) - question about acclimatization, and the note in the rule. Not sure what OSHA is expecting by including that note.

Stacy: if we do due diligence, and do the most we can – for example, install A/C, how strictly are you going to enforce this?

Sarah Rew: Enforcement will consider measures the employer has taken to address the hazard (in this case, of heat). The question I'm hearing from you is “if we do the most (install A/C) and a heat dome weekend occurs ... and the thermostat reads more than 78 ... what would enforcement do?”

Dave McLaughlin: enforcement will look at what steps the employer took to comply with the rule ... or if they did nothing.

Carlton Davidson: we use an apartment complex for H2A workers – and are looking at putting a window unit into the living area (because the window type in bedrooms wouldn't accommodate one). Would it be against the rule for the occupants to sleep in that living room during a hot weekend and sleep there? Would that be acceptable?

Sarah Rew: we don't regulate resident's behavior, per se, in our rules.

Carlton Davidson: how many ceiling fans is acceptable to comply with the rule?

Sarah Rew: The rule doesn't specify number or type of fan. A ceiling fan could be adequate for each bedroom.

Stacy: I've never had to regulate my worker's behavior in their homes – this is a whole new ball game.

Matt Borman: this idea of maintaining 78 degrees is problematic ... if we get outside of normal (like a heat dome) that may not be possible.

Sarah Rew: thank you for that, we will continue to discuss this issue.

Mike Omeg: a \$20,000 whole house system was not able to lower the temp below low 80's during heat dome.

5. June RAC meeting discussion: merge groups? In-person vs. virtual or hybrid?

Members discussed the option of continuing virtual meetings (two separate groups) or having in person meetings. RAC members were supportive of either format and focused on the meetings being productive.

Next meeting: June 29, 2022

Oregon OSHA – ALH RAC

Worker Representative meeting

May 25, 2022

10:30 a.m.

Attendees: Sarah Rew, Greig Lowell, Gary Robertson, Jennifer Flood, Dave McLaughlin, Tomas Schwabe, Tim Mahern-Macias, F. Gutierrez, Ira Cuello-Martinez, Alex Boon, Nargess Shadbeh, Rosie Andalon, Lisa, unnamed caller

- 1. Recap from last meeting:** rule exemptions OAR 437-004-1120(2)(a-c)
- 2. Governor’s Task Force on ALH**
- 3. Heat mitigation in housing:**

Oregon OSHA adopted 437-004-1131 Heat Illness Prevention (adopted 05/09/2022, effective 06/15/2022)

Sarah Rew: Other solutions to heat besides A/C?

Nargess Shadbeh: My opinion is that A/C has to be available at the labor housing for the comfort of the workers ... at a reasonable level. I think we need to think about it as A/C plus ... that has to do with lack of insulation, the type of material used, the position of the cabins, etc.

Sarah Rew: One concern we heard is that it is very difficult to maintain a temperature, especially during high heat periods (maintaining a drop in temperature relative to outside is more achievable). Even in the best of circumstances – it could be difficult to lower the temperature 30 degrees (example: if it was 110 degrees Fahrenheit outside).

Tim Mahern-Macias: The Ag Workforce Housing tax credit would allow use of funds for updating electrical for A/C. Regular maintenance or paying utilities would not be covered. Question: how is this rule information being shared with employers and workers?

Sarah Rew: rulemaking documents are already posted to the web; this new rule requires a heat risks poster; there will be other documents helping explain this rule.

Fernando Gutierrez: I'm the state monitor advocate for the Employment Department. We have 15 outreach workers. We distribute flyers to farmworkers in the field, and especially to the groups on H2A workers that arrive during the course of the season.

Sarah Rew explains the complaint process.

Tim Mahern-Macias: are all the units required to provide thermostats?

Sarah Rew: the new rule does require thermometers. We encourage that the thermometer include humidity.

Nargess Shadbeh: of course we will communicate with the workers ... but we need to think about prevention and enforcement.

Laurie Hofer: let's think about 100 degree days ... the current provisions are not enough to keep workers safe. At a minimum have the rooms where people sleep be cooled. When people come from California they are coming from places that are air-conditioned.

Sarah Rew: is that a requirement there? I haven't seen that in California's rules.

Laurie Hofer: more and more we are seeing it provided, even in Oregon.

Nargess Shadbeh: when people come from California they are often coming from their own apartments, not labor camps.

Laurie Hofer: I think it would be possible to have some sort of statement that says if the temp is over 100 degrees, then you'd use the 20 degree range to indicate effectiveness. What we don't want is these very rare circumstances, the things that happen for 2 weeks during the summer to thwart long term necessary protections.

Jennifer Flood: Regarding gov's task force – 3 goals, provide coordinated enforcement efforts, provide a potential policy package to fund major capital improvements, identify existing barriers to improve conditions and seek solutions to overcome those barriers. Renee, myself, and Alana Cox from DCBS will participate.

Nargess Shadbeh: I want to emphasize that the provisions that are out now will hopefully vastly improve the labor housing. I hope they aren't viewed as the base – we view those as faulty. We are not in agreement with the provisions as they are now as the base – we think that something better needs to be put into effect.

4. June RAC meeting: merging groups, in person, virtual, hybrid

Tim Mahern-Macias: I think it's critical that occasionally there are larger joint meeting.

Next meeting: June 29, 2022