

Agricultural Labor Housing
Rule Advisory Committee for OAR 437-004-1120
February 28, 2024 / 1 p.m. – 3 p.m.

Attendees

Andrew Halliday, Ann Billette, Barbra Anderson, Bill Anderson, Carlos Fernandes, Carlton Davidson, CE Farm Management, Dana Meyer, Dave McLaughlin, Dave Meyer, Erin Roby, Jenny Dresler, Kaci Buhl, Kate Ryan, Kate Suisman, Ken Goe, Lauren Kuenzi, Laurie Hoefler, Lesley Tamura, Lroggers, Martha Sonato, Matt Borman, Matt Kaiser, Megan Thompson, Michael Sterner, Michael Vasquez, Mike Doke, Millie, Nicolia Mehrling, Ona Lawrence, Polkma, Ruth Berkowitz, Sara Duckwall, Scott Dilley, Sunny, Sherry Marks, Silvestre D, Theodore Bunch, Tim Mahern-Macias

1. Welcome – Matt Kaiser (Policy Manager) and Dave McLaughlin (Standards and Technical Manager)

2. Ground rules – facilitators

- Use chat for comments, raise hand, or reactions in Zoom. Limit comments to two minutes. Challenge the idea, not the person. We may prioritize new voices. We will continue to use the five prongs for this meeting: stating the intent of the rule; asking what this rule requires; what is appreciated about this rule; suggestions on the rule; questions, additional information needed on the rule.
- Q. Can you clarify prioritizing new voices? Is that overall or per group in this meeting? We want to understand the infrastructure of rules that needs to be changed. We want to clarify the meeting rules.
- A. We aren't counting number of people speaking. We would minimize information that has already been spoken before. The goal of the RAC meeting is to look at and improve the language of specific rules.
- Comment. The discussion of the \$5 million should be separate from this meeting as that goes to ODA, not OSHA.

3. January meeting recap and participant questions

a. Cooling in sleeping rooms – subsection (22)(b)

The preliminary draft language states that when the heat index is 95 or above that rooms where people sleep be able to be maintained at least 15 degrees below the outside temperature. It's important to note that this is a performance standard – meaning you may achieve it through various means. In other words, this rule doesn't prescribe how you achieve the cooling, just that you are effective in doing so.

b. Consultation registration process – subsection (5)(b)(A-E)

We are working on clearer language for this section, taking into account comments and suggestions made during the last meeting. We will get back to you as soon as we have language to share.

4. Preliminary draft discussion (see attached PDF)

a. Laundry – subsection (10)(a) – *Intent*. That those employees who are using pesticides (and agrichemicals) as identified by WPS have a way to clean their clothes separately from other clothes. Method is not prescribed as long as there is a method.

- Q. Is language "provide for separate cleaning of clothes" meant to be vague? I see it as a problem that other methods would not clean as well as machines.
- Comment. Draft language removes tubs and trays and makes a machine the only allowed method. WPS does not say a separate machine is required. Information needs to be posted in laundry facilities on how workers can align with WPS.

- Comment. If an additional machine is to be required, that would mean a major construction and expense to growers.
 - A. We believe that the additional machine would not count toward required machines in ratio. The rule language is not requiring a separate machine. It is requiring that there is a process.
 - Comment. The temperature of water needs to be considered in rule language. Ratio of occupants to machines needs to be considered when a machine is potentially shared with 30 occupants.
 - Comment. I agree that a separate machine is not necessary, but that it should be posted at the laundry facilities about the needed guidelines (for example a needed rinse cycle).
 - Comment. Federal standards include trays/tubs. Does removing them from the language of Oregon OSHA rules put employers out of compliance? Trays/tubs need to stay an option for ALH operators.
 - Comment. We appreciate that workers and handlers are encouraged to wash their work clothes before they are worn again. We do want it to be clear what information needs to be posted and trained on. Information needs to be reasonable so that people will understand and choose to comply.
 - Comment. I appreciate that trays/tubs would be removed from the rule because hot water temperatures could not be achieved (or used by hand) in a tub/tray.
 - Comment. One to 30 is a high ratio when talking about pesticide removal and exposure to family members. We advocate for 1 to 15.
 - Comment. Workers have relayed that the ratio of 1 to 30 is too high. They suggest 1 to 15, 20.
 - Comment. Research (not formally published) we have found showed that cold water removed pesticide residue as well as hot water. But we have not found research on the efficacy of using trays and tubs to remove residue.
- b. Storage of toxic chemicals that are used in work activities – subsection (6)(e) – *Intent*: to restrict access to chemicals and keep them away from occupants who are not using them. Make storage lockable. No readily ignitable fuel, such as debris or dead or dying vegetation within 100 feet of the structure containing flammable chemicals.
- Q. what is the intent for type of ground (bare ground or well-maintained area)?
 - A. My understanding is that it is adequately maintained for example making it easier to take care of during a fire. We will have to provide further discussion on that topic.
 - Q. What does it mean to be free of the "nuisance of" in rule language? The language seems ambiguous and a lot of liability to the grower.
 - Comment. This would require growers to build new structures to meet distance requirements. Buildings/storage of hazardous materials must meet pesticide storage rules, food safety rules, etc. Rooms might have refrigeration needs. This is already covered in other places in Oregon OSHA rules, so no need to further add distance requirements.
 - Comment. The language "Manage vegetation" is unclear. Some provides shade and visual and noise buffers.
 - Comment. This change is important for fire safety for housing occupants. Pesticide storage structures may be allowed to burn due to the risk of chemicals entering the water.
 - A. This rule language would expand to apply to other chemicals, not just pesticides. The current rules that apply specifically to pesticides would not currently apply to other chemicals used on a farm.
 - Comment. We don't want to discourage vegetation such as arborvitaes. We are talking about vegetation that has been allowed to dry and be close to housing, creating a potential fire hazard. Language is needed for clarification.
 - Q. What is not working on the current rule?
 - A. We will need to get an answer on that.

- Comment. I would like to know growers' thoughts on distance of pesticide/chemical storage to housing.
 - Comment. There is zero distance required other than what is on the label for application of pesticides distance to where people reside. Our provisions under the AEZ require people when there is application of pesticides to either shelter within or walk 150 feet away for 15 minutes.
- c. Access to hot and cold water – subsection (7)(g) and (7)(h) – *Intent*: Occupants have access to water day and night.
- Comment. This rule blends two uses for water but needs to consider all three: access to housing, access near bathrooms, and access near cooking.
 - Comment. Rule change would require housing operators to provide hot/cold, 3-5 gallon water dispensers inside the sleeping units. Currently we have hot/cold water in the bathrooms and kitchens, and refrigerated drinking fountains are provided a short distance from the housing.
 - Comment. A good solution is for workers to take personal water bottles into the housing.
 - Comment. We would like to see this as being bringing water into the living unit, not just sleeping unit, as water may be used for other purposes. Also, we ask Oregon OSHA to define "housing unit."
 - Comment. We appreciate that it is a clear health and safety need for workers to have ready access to hot and cold drinking water near their sleeping areas.
 - Comment. I suggest there be portable sinks and container for gray water, not just portable water containers.
 - Comment. Having potable water in each bedroom/sleeping area is not feasible.
- d. Duplex receptacle per 2 occupants – subsection (6)(j) – *Intent*: occupants have access to power sources for such devices as charging cell phones. All equipment (including power strips) would have to comply with Oregon OSHA rules such as electrical and potential for tripping hazards.
- Comment. I appreciate that this would allow occupants to charge their devices in the place they are sleeping instead of in a common area.
 - Comment. Construction required would be cutting in drywall, potential of upgrading electrical panel.
 - Q. Could existing construction be grandfathered in?
 - A. It can be difficult to define what is considered new construction.
 - Comment. Draft language should include the word "duplex" to clarify type of outlet.
 - Comment. It would be possible to run conduit down the surface of the wall.
 - Comment. That may be possible but would not be the right way to do it.
- e. Shower privacy and changing area – subsection (9)(b) and (9)(e) – *Intent*: occupants have privacy in changing areas.
- Topic to be discussed in future meeting. Please send suggestions to Oregon OSHA.

5. Steps for next meeting

a. Living space square footage

Intent: We did not intend to modify the square footage for sleeping rooms, rather 100 square feet per occupant of living space. All areas would count toward square footage, not just sleeping room counting toward square footage. This would not be the case for a barracks-style house, for example, where the kitchen or bathroom are in separate buildings, not connected to the housing. Oregon OSHA cannot reduce the 50 sq ft per occupant minimum requirement. This is still under discussion in regards to how units/areas that are not physically connected to the sleeping areas relate to this.

Definition of "household": Oregon OSHA would like feedback from RAC on the connection of this definition to living space square footage.

- b. March 20 – offer to RAC members to tour ALH at a specific location in The Dalles. More information to come.
- c. Fiscal impact considerations (please send via email to sarah.c.rew@dcbs.oregon.gov)
- d. Subsequent meetings: *March 27, 1-3 p.m. (*spring break for most K-12 schools in Oregon) and April 24, 1-3 p.m.