

Agricultural Labor Housing
Rule Advisory Committee for OAR 437-004-1120
March 27, 2024, 1 pm – 3 pm

Attendees

Alba Johnston, Ann Billette, Barbra Anderson, Carlton Davidson, Dave McLaughlin, Dora Herrera, Gutierf, Jackie Hernandez, Jennifer Stewart, Kate Ryan, Kate Suisman, Lisa Rogers, Maria Venegas, Martha Sonato, Matt Kaiser, Michael Vasquez, Mike Omeg, Kassie Clarke, Liz Marquez Gutierrez, Nargess Shadbeh, Nicolía Mehrling, NWJP, Paloma Dale, robbrk, Rosie, Ruth Berkowitz, Samuel Murillo, Sarah Rew, Sherry Marks, Stacey Cooper, Theodore Bunch, Tim Mahern-Macias

1. Welcome - Sarah Rew (Technical Specialist), Dave McLaughlin (Standards and Technical Manager) and Matt Kaiser (Policy 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 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.
3. Discussion of preliminary draft language
 - a. Living space square footage (100 sq. ft.) – what areas/rooms are available for occupants and how do those areas/rooms vary by dwelling types (farmhouse, apartments, trailers, bunk houses, etc.)

Questions/comments

- Comment. Living space needs to be defined by Oregon OSHA and rules need to require that rooms are sized appropriately to the number of people living in the units (kitchens and bathrooms). For CASA Oregon, bedrooms need to be a minimum size of 175 sq ft. for example.
- Comment. I would not consider outdoor space as part of the square footage, but if those outdoor spaces (with cooking elements) were to be enclosed, then they should be part of the square footage. It would be useful for Oregon OSHA to define "housing unit." There is no need to knock down walls if there is air circulation between those rooms.

A unit is a sleeping area, kitchen, bathroom. We should not add common kitchen/bathroom facilities that may be 100 feet away to the 100 sq foot requirement of the unit. The common/central kitchen facility may be available to occupants of more than one sleeping unit. From what I have seen, 50 sq ft of space on the other side of the labor housing does not improve the air circulation and availability of that space to the individual in that room.

- Comment. In a quick online search, for sleeping areas, 228 sq ft is an average dorm room. Average in a prison, the lowest is 48 sq ft per person. We should be able to create a good solution. It needs to be clear that this is what is required in these specific situations or expand the rule to have different definitions depending on housing type (bunk housing, camp housing, cabins, etc.).
- Comment. There are building resources/funding and alternatives for housing available (CASA for example). There are requirements to be within access to stores, medical, etc.
- Comment. We are hearing from growers that they are not able to meet the updated definitions.

- A. Rule defines living area, not living space. *437-004-1120(4)(i) Living area is any room, structure, shelter, tent, manufactured home or dwelling or prefabricated structure, vehicle or other place housing one or more persons.*
Confusion lies with there being separate buildings housing the sleeping areas, kitchens, bathrooms, etc. We are working on how to define that well for the group.
- Q. Can you explain whether those separate spaces open up to each other? It is important that these spaces are connected.
- A. There are some where they do and some that don't. The current rule does not require that they are under the same roof and walls.
- Common/separated kitchen and bathroom facilities used by more than one housing unit in the camp should not count toward the required square footage. Ample square footage also affects air circulation.
- A. Currently in those group living situations, we are not counting that square footage of that bathroom. Only in a studio-like setup would it be counted as a live, cook, sleep area.

b. Living space suggestions have included:

- i. Borrowing from [AO 1-2021](#) (COVID-19 ALH Rule) definition (e) *Household – means a group of persons who lived in the same residence prior to arriving at the employer-provided housing. Households may have unrelated individuals or families living together or may be a family unit.*
- ii. Is some concept of a “household” beneficial in terms of living spaces requirement of square footage per person?

Questions/comments

- Comment. Defining "family" is very difficult. Occupants may define "family" differently. It may be immediate family, extended family, or a good friend who is in the group.
- Comment. I think the [COVID-19] rule is a good start, but in Oregon we have been using a broader definition of family, for example in the Oregon Leave program.
- Comment from chat. "Family member" under the PFMLI program includes spouses and domestic partners, children, parents, siblings or stepsiblings, grandparents, grandchildren, and "[a]ny individual related by blood or affinity whose close relationship with a covered individual is the equivalent of a family.
- Comment. Workers were living, traveling, working together before they may have arrived at Oregon housing to work. So they have established a prior familial relationship.
- Q. to group. What are your thoughts on square footage requirements changing or staying the same for households vs individual occupants sharing a space? Should there be different requirements?
- A. Open to flexibility when there is a household established. But for unrelated individuals, we feel strongly about 100 square feet as a minimum. But I think there is some flexibility on 100 square feet when talking about a defined family.
- Comment. If there is cooking in the space, housing needs to adhere to 100 square feet per person, whether or not they are family. But if the kitchen is outside, there has been some discussion about allowing the outdoor kitchen square footage to count toward the required square footage per occupant, if that space were to be enclosed.
- Q. to group. What is the opinion on outdoor kitchens heating up in the summer and not wanting to heat up an indoor space more than it already is?
- Q to group. What is considered an enclosure? Is that a covered roof?
- A. A mesh curtain is not considered enclosed, in my opinion. Because it can get quite hot in some areas in Oregon, is why we are talking so much about air conditioning in the

housing. I have heard from workers about the difficulty of preparing food outside due to strong winds. Enclosure requires a roof, walls, and a door.

- Comment. How do H2A workers fit into the term "household"? They are not related. There may be 150 coming in at once for example.
- A. A definition of "household" is not applicable to Oregon OSHA rules. They work with Oregon Employment Department under a Memo of Understanding to make sure that H2A housing is adequate under those rules.
- A. For OED, it is not about if occupants are related or not related. It is about the required square footage per occupant. There is not a "household" definition that applies.
- Comment. Pesticide drift would be a concern for outdoor kitchens that a mesh wall would not prevent.
- Comment. With wind, trees, wildfire smoke etc. enclosed kitchens are a priority for us.
- Comment. It seems that Oregon OSHA is using the "household" definition as similar to the Covid-19 rules previously in effect to address concerns about lack of square footage and homelessness as a result of any provisions. We want to be collaborative with current housing as opposed to new housing.
- Comment. Request to renew rules/discussion on use of air purifiers in housing. Urge agencies to collaborate with stock of thousands of air purifiers with OHA.
- Q. to group. Other than Covid, what are health concerns with higher occupancy?
- A. There are studies that show that respiratory diseases increase with higher density. Overcrowding interferes with quality and length of sleep which can lead to increased injury in the workplace. Increased instances in depression with lack of privacy.
Shared in chat regarding overcrowding:
<https://ccdd.hsph.harvard.edu/2020/08/25/declaration-oregon-lipsitch-accorsi/>
- Comment in chat. Request for the definition of household from the Covid-19 rule.
- A. AO 1-2021 A group of persons who lived in the same residence prior to arriving at the ALH Housing. Person may be unrelated and not necessarily family.
- Comment. Safety could be a concern if there is a smaller space when an occupant is jumping down from a top bunk for example.
- Comment. Department of Labor, Training and Employment Guidance Letter (TEGL) No. 05-20 discusses health of farmworkers before and after the pandemic.
- Comment. We are looking at what data is there and trying to finetune the square footage number and how that affects the safety and health of workers.
- Comment. There is a study on dorms and the size of the sleeping areas and getting respiratory disease by Dr. Lipschitz.
- Q. Does security affect the safety of workers?
- Q. How does Oregon OSHA see general well-being?
- A. Oregon OSHA's labor housing rules establish minimum standards of living that can affect well-being, although it is not the primary focus of the rule.
- Q. Are there any long-term solutions or alternatives that may address challenges associated with occupancy density and living space? How can these solutions or alternatives be implemented in such a way to address the concerns expressed by growers (cost or employee loss)?
- Comment continuing discussion from above: There are building resources/funding and alternatives for housing available (CASA for example). There are requirements to be within access to stores, medical, be on public water and sewer, etc. Square footage and access to services affect mental health. It would be helpful to have a partnership with farmers.
- Comment. Additional funding for affordable housing has been allocated by the governor's office.

- Comment. We [advocates] would like to know the specific stumbling blocks (for example, permit issues) that growers face to expanding the housing.
 - Comment. A few suggestions would be portable trailers, building up a story instead of out.
 - Comment. We want to make sure that going to 100 sq ft required would not be changed to 150 sq ft down the line after changes or new buildings are remodeled.
 - Comment. Some suggestions: enclosing the kitchen space so it counts toward additional living space; making sure there is adequate ventilation so that those spaces count toward living space.
 - Q. When did the rule of 40 sq ft per occupant first begin?
 - A. ANSI Z 4.4-1968 of 1972 (updated in 2016) was the source standard for the 40 sq ft rule. The current version updated in 2016 has 50 sq ft.
 - Comment. Oregon OSHA needs to define housing unit.
 - Q. Is it correct that that ANSI standard of 50 sq ft does not include cooking facilities indoors?
 - Comment. We would appreciate learning from Oregon OSHA or other members the scientific evidence behind the 40, 50, or 100 square feet.
 - Q. to group. Funds for building housing off-farm. Generally, when there is funding, there are increased standards. Is there discussion needed on this topic?
 - A. Newly built housing is usually held to a higher set of standards.
- c. Shower privacy and changing area – subsection (9)(b) and (9)(e) – *Intent*: occupants have privacy in changing areas.

Questions/comments

- I think we were looking at 1 to 7 as a ratio. We will see a bathroom that has multiple shower stalls in the bathroom, but there is a line of multiple people waiting because there is only one main lock on the bathroom, not on individual shower stalls. If workers are deterred from using bathroom facilities because they don't feel secure or private, then this will affect their health and safety.
 - Q. to group: Is a latch lock acceptable? Curtain that closes acceptable?
 - A. would have to look at specific locks and distance from ground ceiling. The idea is to give privacy and security. Also separate changing areas need to be discussed. We would ask that this be a connected facility.
 - Q. Can there be a separate women/children facility and then a men's facility?
 - Comment. Ideally each bathroom would have individual locking stalls.
 - In rule language, it should be required that the changing facility be *in* the bathroom facility, not *near*.
 - Comment. Need standards for hygiene to be consistently met.
 - Comment. Main door lock could be removed if there were individual locks on the stalls.
4. Fiscal impact considerations can be sent to Sarah Rew (sarah.c.rew@dcbs.oregon.gov). Additional materials are posted on Oregon OSHA's webpage for [this rulemaking](#) under Documents.
5. Next meeting: April 24, 1-3 pm