



Department of Consumer
and Business Services

Agricultural Labor Housing
Rule Advisory Group for OAR 437-004-1120
Minutes April 24, 2024, 1 pm – 3 pm

Attendees: A, Alba Johnston, Bill Anderson, Dana Meyer, Daniel Hough, Dave McLaughlin, Dave Meyer, Erin Roby, Ian Chandler, Jackie Hernandez, Jeff Stone, Jennifer Stewart, Jenny Dresler, Kassie Clarke, Kate Ryan, Kate Suisman, Ken Polehn, Lauren Kuenzi, Laurie Hofer, Lesley Tamura, Liz Marquez Gutierrez, Manuel Rincon, Maria Venegas, Marissa, Martha Sonato, Matt Borman, Matt Kaiser, Michael Sterner, Michael Vasquez, Mike Doke, Mike Omeg, Millie, Nicole Mann, Nicolia Mehrling, Peter Hainley, Phil Brady, Reggie, Rocky, Rosie, Ruth Berkowitz, Samuel Murillo, Sara Duckwall, Sarah Rew, Scott Dilley, Scott Hege, Sherry Marks, Silvestre D, Theodore Bunch, Tim Mahern-Macias, Varon Blackburn, Yesenia Amaro

Agenda

- A. Welcome
- B. Ground Rules
- C. Review of rule concept document
- D. Discussion
- E. Next Steps

A. Welcome

Sarah Rew (Technical Specialist), Dave McLaughlin (Standards and Technical Manager) and Matt Kaiser (Policy Manager).

B. Ground Rules

Use chat for comments, raise hand, or reactions in Zoom. Limit comments to two minutes. Challenge the idea, not the person. Do you generally support this? If you generally disagree, which aspect do you disagree with and would you generally support this if you had the time to comply? Questions or concerns about implementation. Add additional information in the chat or email after the meeting.

Comment: There are quite a few proposed rules that we feel lack definition and clarity in their expectations of growers.

C. Review rule concept document

“Considerations of General Support” (attached in meeting email).

1. Application.

Comment: The housing providers from Columbia Gorge Fruit Growers generally support this.

Comment. section 1 – generally support (advocates).

2. Hotels/motels.

There is general support of this.

3. Charging occupants for services.

Comment: The change that we cannot charge for laundry at all is disputed. Should be continued to be allowed to charge for machines that are beyond the required number (and free option is available). Growers have invested a lot in coin-operated machines since they were allowed under current rules and it would be costly to have to replace all of those.

Comment: Toilet paper should be required to be provided free of charge only in communal situations not with individuals [who] have their own bathrooms.

Comment: There is general support for this section but additional support/clarification is needed on utilities being included as part of the rule.

Oregon OSHA: Our understanding right now is that if they are not included then there is not general support. We welcome those comments.

Comment: Section 3 - Do not support. The rule should continue as is with coin operated laundry as an option if free laundry service is also provided. Toilet paper should be provided only in communal situations not with individuals who have their own bathrooms.

Comment: Section 3 - Do not support this change.

4. Definitions (in this document).

Comment: The part we are in disagreement on is on the water temperature of 100 degrees. Advocates are requesting that this be higher – 120 degrees F.

5. Housing registration requirements.

First two paragraphs (also including first paragraph that has been stricken, "Each year" and "The operator"):

Comment: We do not generally support the first two paragraphs because we feel it is too ambiguous. Comments will be submitted.

Q. 5: Remove "E. coli", what about arsenic?

Comment: Generally support but do not support ONLY requiring arsenic testing at time of registration.

Next two paragraphs ("If the housing..." and "If there were...")

Q. Generally in support. But asking Oregon OSHA how these two differ? How does this make it clearer to be "substantially in compliance with all applicable safety and health rules" vs "free from hazards."

Comment: Generally do not support. Paragraph, "If the housing.." is a bit too ambiguous. Written comments will be submitted.

Comment: Term "significant changes" is not well defined.

Next four paragraphs ("Each year," "The housing," "The protest," "The protest")

Comment: We generally support this paragraph. For the water testing, prefer 1-2 years to align with the changes (labs that can be used) and learn protocols.

Comment: Section 5 - Housing providers have a lot of questions about these changes. We understand conceptually what OSHA is trying to accomplish, but the real-life application does not make sense. We do not support these changes in Section 5, not out of principle, but because there is too much ambiguity and more clarification is needed. We will submit written comments.

Comment: Since we would only utilize housing through h2a I am not sure this helps or hurts. Will think on this.

6. Site requirements

Comment: We agree with the concept but "Nuisance" is vague. We also want to ensure the absence of vermin.

Comment: Section 6 - Site Requirements - we feel that the 30 feet requirement of cutting back grass/weeds/brush is what should be used as these are suggested by Firewise guidelines.

Comment: Support distance of brush from housing - do not agree with 30 feet.

Comment: Section 6 - if we include "nuisance" it needs to be defined.

Q: [In regards to XX feet of the storage structure] is the footage something that will be added later? Should we provide comments on a certain footage?

Oregon OSHA: This document is just stating that this number has not been agreed upon.

Comment: Section 6 - "cut back" also needs to be defined. Mowed or tended? Versus eliminated, which I don't think is what OR OSHA intends.

Comment: Section 6 - clearing brush way from storage of hazardous materials - as Firewise guidelines suggest 30 feet, we support a distance of 30 feet.

Comment: Do support.

Comment: Generally support - need definition of "safe" and "secure."

Comment: Section 6 - electrical receptacles, do not support.

Comment: Section 6 - "At least 1 electrical receptacle..." - We do not support this. This may not be available in older housing and may require major electrical work. We recognize that power strips are available for use, but this may not provide sufficient receptacles.

Comment: We do not support one electrical receptacle. It may not be available in older housing and power strips may not be sufficient. We support the date change. Question if portable toilets are included in the lighting requirement. Generally support common use lighting and street numbers displayed.

Comment: Section 6: 1 outlet is not enough. We think there should be 1 per person in all units. And the rule should specify GFCI or other protective overload capability for all outlets.

Q: Clarification requested – Section 6 - Electrical light in toilet rooms - does this include portable toilets?

Comment: If portables are allowed to count to minimum ratio, should be included in electric light requirement.

Comment: Do not agree one electrical receptacle is adequate for two workers.

Comment: Section 6 Electrical outlet: We don't agree, we believe each occupant should be able to have an outlet. Section 6: We agree that the grower should provide GFCI strips to get every occupant an outlet.

7. Water supply

Comment: Do not support 20 psi, needs to be higher - 30 psi.

Comment: Do not agree one testing of arsenic is sufficient.

Comment: Not in agreement of 35 gallons per day, per occupant.

Comment: Discussion of OAR 333. DWS is not in a position to support or not, but it would be problematic to apply OAR 333 to systems that do not meet the definition of a public water supply. "Drinking water services" would not support the backflow requirement. Support all facilities sampling for coliform, nitrates, and arsenic, and being transparent about the results to water users. Labs should be done by OHA-certified labs for analyzing drinking water samples. Testing for E.coli should be stricken because it cannot be tested for on its own. In chat: E. coli is a subset of total coliform that indicates there is fecal contamination. If total coliform is not present, then E. coli is not present. This language should be cleaned up in the rule language.

Comment: We would prefer 608.1 Oregon Plumbing Code since growers are not considered "water providers."

Comment: Section 7 - Change in PSI - Do not support - OAR 333 applies to "water suppliers" (as defined in the rule it means owns/operates a public potable water system). We as housing providers are not "water suppliers" and therefore should not be

held to this standard. According to Oregon Building Code, specifically Oregon Plumbing Specialty Code 608.1 that requires a minimum PSI of 15. The others we generally support.

Comment: General support of testing for nitrates, chloroform, and E.coli, but we are not in support of testing for nitrates only once. This is inadequate. Recommend testing at the height of occupancy (more than once).

Comment: I do not think there is agreement to 35 gallons of water being adequate. For water testing, need to require testing during peak season.

8. Bathing, handwashing, laundry, and toilet facilities.

Oregon OSHA: We have not come to a point of agreement on water being outside of the dormitory for example rather than inside.

Comment: Do not support ratio of 1:10 for showers.

Comment: If this (having exhaust fans) would be required in all of these building types, we do not support it.

Comment. If ventilation language is rewritten, it should apply to all facilities.

Comment: Section 8 - Do not support - current rule requires exhaust fans in toilet facilities. The new language (specifically the heading) requires exhaust fans in bathing, handwashing and laundry facilities as well. If the toilet facilities are separate from laundry or bathing, this would require exhaust fans in all facilities.

Comment: If portables are allowed to count to minimum ratio, then they should meet the same ventilation requirements and makes some sense to refer to building codes here.

Comment: If portables are allowed to count to minimum ratio, agree that they should be required to have ventilation.

9. Bathing and washing facilities.

Oregon OSHA: This section is slightly reordered from how the rule is currently written.

Comment: Section 9 - Generally support - one locking shower stall for every 10 occupants, we propose 1:7. We also suggest Private locking dressing area should be near bathing facilities.

Comment: Suggest using "all gender" to replace "unisex."

Comment: Not in agreement with the ratio.

Comment. If ratio language changes, we are not in support of locking shower stalls. We are not in support of a separate, locking dressing area being required.

Comment: Section 9 - locking shower stall - This proposed language maintains the ratio of 1 shower for 10 occupants with a locking stall door. We support this if the language for the ratio does not change. If the language around ratio changes, we are not in support.

Comment: Section 9: do not support if changing areas are not required to be adjacent to bathing facilities.

Comment: Section 9 - Private locking dressing area - we do not support this. This requires space that we do not necessarily have. Could reduce occupancy or create tradeoffs for space currently used by other amenities.

Comment: In support of private, locking dressing room in bathing facility, not in support of allowing it to be located "near" the facilities.

10. Laundry facilities.

Comment/Question: Support lighting on walkways. Before giving general support, we need clarification of locking door requirements—if a bathroom is communal but is set up like a single-use bathroom (has an entrance door, toilet stall, shower stall, sink), if the entrance door can be locked, does that count for locking door requirements?

Comment: 5-10 years to accomplish locking door requirements. Regarding distance of handwashing facilities, as long as that distance is reasonable and not too close, then we could agree to that. We are thinking a timeline of 2-5 years for this and for door locking requirements we are hoping for 5-10 years which requires more major construction.

Comment: In general support with a solid door with a latch/lock and toilet compartment is private.

Comment: Generally in support of sections 10 and 11 with OLC's clarifications.

11. Toilet facilities.

(Repeated in Section 10) Comment: In general support with a solid door with a latch/lock and toilet compartment is private.

(Repeated in Section 10) Comment: Generally in support of sections 10 and 11 with clarifications.

Comment: Section 11 - providing solid door with lock/latch for toilets - we need clarification on whether a communal bathroom that is set up similar to a single-use bathroom but has a locking entrance door would suffice.

Comment: Section 11- we do not support a locking communal bathroom. People lock them to get their needed privacy and then others cannot use them. We support individual locking shower stalls.

12. Living areas.

Comment: Section 12 - "structurally sound" - we do not support this language addition - not necessary when the rule already include "in good repair structurally". We do not support the terminology of "structurally sound" since language already exists in the rule.

Comment: We are in general support of including "structurally sound." We have a question on how that would be defined. Also would like to add "drift" to the part on "provide shelter for the occupants against the elements."

Comment/Question: Generally in support. Agree with the addition of "drift." Is the idea with the heaters that they are kept somewhere and occupants need to ask for them? I think it is easier for the occupants if they are just supplied in the units instead of the occupants needing to ask for them.

Comment: Support addition of "structurally sound" in section 12.

Comment: Section 12 - support defining "elements" to include drift.

Comment: Section 12 - timeline of 5+ years to install exhaust fans in living areas where gas burners are used but we do generally support.

Comment: Do not support allowing bunk beds. If bunk beds allowed, support requiring safe access.

Comment: Section 12 - beds - we generally support but request a timeline of 1 year to replace pads/cots and 2+ years to add safe access to upper bunk because it requires more construction.

Comment: Section 12: support for requiring mattresses and not cots.

Comment: Need to define a "safe access to upper bunk."

Q. Section 12 - will disposable mattress covers be allowed if they are replaced when needed? Clarification needed.

Comment: Mattress must not sit on the floor unless occupant prefers mattress on the floor instead of on a bed frame. Many occupants prefer putting their mattress on the floor.

Comment: Section 12 - storage facilities - we do not support the proposed amount of space per person. It is an unreasonable amount that we do not have the capacity for. Don't support providing the amount of 21 cubic feet for storage. In support of the general idea of providing storage.

Comment: Section 12 - Support providing adequate and lockable storage.

13. Fire protection (Carbon monoxide detector).

Comment: General support to have carbon monoxide detector in the units. Remove "if there is a source of carbon monoxide." Just require them outright.

Comment: Support requiring carbon monoxide detectors in each living area.

Comment: Support requiring a carbon monoxide detector if there is a source of carbon monoxide.

14. Cooking and eating facilities and equipment

Comment: Section 14 - Cooking Facilities - We need a definition of "equipment" before we can voice support.

Comment: Section 14 - food prep and sinks in cooking facilities - in some locations these are not technically located in the "cooking facilities" but are nearby. We do not

support language that requires them IN the cooking facility.

Comment: Section 14 – We do support the 40 degree requirement. But regarding cooking facilities must include refrigerator - In some locations fridge is located in the sleeping area (giving occupants more privacy and control of what they store in there) and not technically in the "cooking area" so we do not support (example outdoor kitchens).

Comment: Support requiring cooking facilities and adequate, protected food storage and food preparation.

Comment: Section 14 - Support providing sink near food preparation area.

Comment: Section 14 - generally support the proposed changes regarding cooking and food prep areas.

Comment: Section 14 - food prep and sinks and cooking storage areas in cooking facilities - in some locations these are not technically located in the "cooking facilities" but are nearby. We do not support language that requires them in the cooking facility.

15. Disease reporting

General support of this section (removal of word "camp").

Oregon OSHA: may be an update to this section.

16. Heat illness prevention in labor housing

Comment: Not general support of this section. This is just too hot if occupants are not getting a space to cool down at night. Too dangerous to support.

Comment: My comment on heat was about the 95+ degrees part not the less than 95 degrees.

Comment: Section 16 - heat illness - we support but request a longer timeline due to the cost and work to install needed AC systems, 5-10 years.

Comment: Support additional protections against high heat and support requiring keeping to 78, do not agree with different provisions for over 95 degrees - should be the same requirement as for under 95.

Comment: Section 16 - 15 degrees lower inside temp when 95+ degrees outside - We support as this is based on the expertise of HVAC technicians that know what is reasonable to expect of window AC/mini split systems/heat pumps to be able to do.

Comment: We do not support this because we are getting to a place where it would be extremely hot in the units. For example, an outside temperature of 112 (recorded in Portland) would allow the inside temperature in the units to be 97 degrees, which is not a comfortable/safe temperature for occupants to be able to rest.

Comment: Support additional protections against high heat and support requiring keeping to 78, do not agree with different provisions for over 95 degrees - should be the same requirement as for under 95.

Comment: General support for remaining language on 95 degrees and stricken language as shown in this meeting document.

Oregon OSHA: Clarification that some portions of the existing language will remain (thermometer for temperature awareness, heat risks and housing poster, required training).

Comment: Not general support for removing the rest of the rule. We still want the other things in the existing rule (for example window shades, fans) if there are few protections for workers after 95 degrees.

D. Discussion

Are there other rule concepts with general support that were not included in the “Considerations of General Support” document?

Note: Items not being included in this document is not an indication of a decision being made but rather a recognition that we do not have general support for the item. Oregon OSHA will present the concepts contained in this document as well as concepts contained in the [November 2023 Preliminary Language document](#) to the Governor’s Office for consideration.

Q: I wanted to confirm that our comments from Wasco County were or will be provided to the members or decision makers. Can that be confirmed?

RAG comments are posted on OR OSHA website.

E. Next Steps

Oregon OSHA will continue to collect and compile the fiscal details received by stakeholders into one document and share with the RAC. If pieces of information are missing, further communication will occur to gather these details.

We have posted the documents that we receive about costs to the ALH RAC page:
<https://osha.oregon.gov/rules/advisory/alh/Pages/default.aspx>.

Please reflect on and share: further questions or clarifications on considerations in this document OR time frame or implementation considerations for the considerations we reviewed. Comments and fiscal information is appreciated.

Q: Will OSHA also be providing recommendations in addition to where there is consensus?

Q: What is the deadline for submitting additional written comments on this?

Oregon OSHA: There is no specific deadline at this time but sooner is more helpful for more time for consideration.

Q: Who makes decisions? OSHA or governor?

Oregon OSHA: Information will be shared with the governor (meeting date is not set). The governor can intervene if chosen to as OSHA is part of the executive branch.

F. Contact

Sarah Rew (sarah.c.rew@dcbs.oregon.gov). Additional materials are posted on Oregon OSHA's [webpage](#) for this rulemaking under Documents.