

December 19, 2007

## Oregon OSHA - Proposed Changes To Agricultural Labor Housing (ALH)

### *Public Hearing Scheduled for:*

<u>Date</u>	<u>Time</u>	<u>Location</u>
January 22, 2008	9:30 am	Woodburn Grange 891 Settlemier/Hwy 214 @ Settlemier Woodburn OR 97071
January 29, 2008	11:00 am	Rockford Grange 4250 Barrett Drive Hood River OR 97031
January 30, 2008	9:30 am	White Eagle Grange 43828 White Eagle Road/Hwy 395 Pendleton OR
February 8, 2008	11:00 am	Roxy Ann Grange 1850 Spring Street Medford OR 97504

This action modifies much of the current Agriculture Labor Housing standard. Oregon OSHA began this process to satisfy concerns from Federal OSHA that parts of our rules were not as effective as theirs. Some other portions of OAR 437-004-1120 are amended to provide clarity or update references. A significant change was the deletion of references to tents. Tents will only be labor housing when they meet all the requirements of the standard just like other structures.

The most significant impact of these changes will be the requirement for 100 square feet per occupant as the minimum for living areas beginning on January 1, 2018. It also requires all ceiling heights be at least 7' by that date.

This action repeals labor housing rules in Division 2, General Industry and refers employers covered by that division to the rules in Division 4, Agriculture. The Division 4 rules on housing registration and replacement housing do not apply in Division 2.

**When does this happen:** Adoption tentatively will be February 2008

**To get a copy:** Our web site – [www.orosha.org](http://www.orosha.org) Rules/Compliance, then Proposed Rules  
Or call the OR-OSHA Resource Center at 503-947-7447

**To comment:** Department of Consumer and Business Services/Oregon OSHA  
350 Winter Street NE  
Salem OR 97301-3882  
E-mail – [tech.web@state.or.us](mailto:tech.web@state.or.us)  
Fax – 503-947-7461

**Comment period closes:** February 19, 2008

**OR-OSHA contact** Ron Preece, Central Office @ 503-947-7876;  
or email at [ron.c.preece@state.or.us](mailto:ron.c.preece@state.or.us)

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

Sue Joye                      350 Winter Street NE Salem OR 97301-3882  
Rules Coordinator                      Address

503-947-7449  
Telephone

**RULE CAPTION**

Proposed changes to Agricultural Labor Housing (ALH).

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

January 22, 2008                      9:30 AM                      Woodburn Grange  
Hearing Date                      Time                      Location  
891 Settlemier/Hwy 214 @ Settlemier  
Woodburn OR 97071                      Sue Joye  
Hearings Officer

January 29, 2008                      11:00 AM                      Rockford Grange  
Hearing Date                      Time                      Location  
4250 Barrett Drive  
Hood River OR 97031                      OR-OSHA Staff  
Hearings Officer

January 30, 2008                      9:30 AM                      White Eagle Grange  
Hearing Date                      Time                      Location  
43828 White Eagle Road/Hwy 395  
Pendleton OR                      OR-OSHA Staff  
Hearings Officer

February 8, 2008                      11:00 AM                      Roxy Ann Grange  
Hearing Date                      Time                      Location  
1850 Spring Street  
Medford OR 97504                      Sue Joye  
Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**AMEND:** OAR 437-004-1120  
**REPEAL:** OAR 437-002-0142

ORS 654.025(2) and 656.726(4)  
Stat. Auth.                      Other Authority

ORS 654.001 through 654.295  
Stats. Implemented

**RULE SUMMARY**

Oregon OSHA began this process to satisfy concerns from Federal OSHA that parts of our rules were not as effective as theirs as required by our State Plan Agreement. Some other rules were amended to provide clarity or update references.

OR-OSHA deleted references to tents. Tents will only be labor housing when they meet all the requirements of the standard just like other structures.

We clarified several rules to apply only to common use facilities.

The rule about keeping livestock or poultry near Agricultural Labor Housing (ALH) changes to prohibit confined livestock within 500' of ALH but exempts operations where the occupant employees are the same people who tend the animals.

We removed the requirement that wiring comply with the Oregon Building Code because subdivision 4/S already covers the issue.

The lowest point of wooden floor must be at least 12" above the ground.

Water pressure must be at least 15 p.s.i.

The rule on availability of drinking water was clarified.

Common use facilities must have heaters to keep them at least at 68 degrees.

The new rule will require one shower head for every 10 occupants of part thereof. The old number was 15.

Hand washing facilities now require one sink for every 6 occupants or part thereof. The old number was 15.

Laundry facilities must be in the ratio of one for every 30 occupants or part thereof. The old number was 25. The option to use local public facilities instead of providing camp facilities is no longer allowed.

The new rule requires operators to clean common use toilet facilities daily or more often when needed.

The new rule prohibits obstruction to the path to toilet rooms.

The new rule requires that privies be no closer than 100 feet to the living or cooking areas. The old number was between 50 and 200 feet.

The new rule will require daily cleaning of portable toilets, privies and chemical toilets.

The new rule will require at least weekly servicing of portable or chemical toilets when in use.

The new rule will require operators to empty garbage dumpsters or bins before they become a health hazard or become full enough to prevent full closing of the lid.

The new rule will require emptying of garbage cans and portable containers for each unit when full or twice weekly.

The new rule requires heating capable of keeping living areas at 68 degrees. It also sets standards for the types of acceptable heaters.

The new rule requires the sleeping surface of beds or bunks to be at least 12 inches off the floor. It also prohibits putting mattresses on the floor.

The new rule establishes 100 square feet as the minimum for living areas beginning on January 1, 2018. It also requires all ceiling heights be at least 7' by that date.

The new rule requires windows or skylights totaling at least 10% of required floor space. Half that required space must be openable to the outside. It limits skylights to one-half the required window space.

Rules on cooking facilities will be divided into one for common use and one for private use.

The new rule prohibits a direct connection (entry/exit) between a common use kitchen and any living or sleeping area.

Common use cooking facilities must comply with the FDA publication, "FDA Food Code" – 2005.

For both common use and private use kitchens the ration of burners to occupants changes to two for every 10 persons, 2 families or part thereof. Also, refrigerators must now be capable of holding at 41 degrees instead of 45.

Camp operators will have to comply with OAR 333-018-0000 regarding reporting of specific communicable diseases in the camp our among users of the kitchen.

Please visit our web site [www.orosha.org](http://www.orosha.org) Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

/s/Michael D. Wood  
Signature

February 19, 2008

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

Michael D. Wood

Printed name

12/14/2007

Date

\*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

ARC 920-2005

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/OR-OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

**In the Matter of:** Amending OAR 437-004-1120, and Repealing OAR 437-002-0142.

**Rule Caption:** (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)  
Proposed changes to Agricultural Labor Housing.

**Statutory Authority:** ORS 654.025(2) and 656.726(4)

**Stats. Implemented:** ORS 654.001 through 654.295

**Need for the Rule(s):**

Oregon OSHA began this process to satisfy concerns from OSHA that parts of our rules were not as effective as theirs. Some other rules were amended to provide clarity or update references.

**Documents Relied Upon, and where they are available:**

FDA Food Code – 2005 - Oregon OSHA Resource Center

OSHA letter dated February 28, 2001 on effectiveness issues - Oregon OSHA Resource Center

Washington Administrative Code 296-307, Part L -

<http://www.lni.wa.gov/wisha/rules/agriculture/PDFs/307All.pdf>

OSHA Interpretation dated April 12, 1988 on Labor Camps and Livestock -

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=19654](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=19654)

**Fiscal and Economic Impact, including Statement of Cost of Compliance:**

Oregon OSHA sent a survey to approximately 329 registered Ag Labor Housing facilities. We received 118 replies. Some of the statistics related to ratios in the new rules and cited in this fiscal impact statement are drawn from the survey responses.

The rule for a drinking fountain adds a ratio for housing occupancy to a previous requirement . Thus, we estimate that most employers are already in compliance. Those who must install a fountain will experience a cost of \$30 to \$150 per fountain depending on existing plumbing.

The requirement for heating in service buildings could result in costs of \$50 each for portable units or over \$1000 for permanently installed systems. We cannot estimate how many employers will experience costs related to this rule.

The rule changing the shower head requirement from one head per 15 occupants to one per 10 will impact approximately 16% of registered housing operators. Estimated expense per shower head ranges from \$40 for easy, do-it-yourself installation in existing buildings to several thousand dollars in those instances where the operator has to remodel or construct a new building.

The rule changing the handwashing requirement from one sink per 15 occupants to one per 6 will impact approximately 34% of registered housing operators. Estimated expense per installation ranges from \$75 for easy, do-it-yourself installation in existing buildings to several thousand dollars in those instances where the operator has to remodel or construct a new building.

The rule changing the laundry tray/tub requirement by not allowing use of nearby commercial facilities could result in expenses of \$200 per tub/tray for simple installations to more than \$1000 per tub/tray in those instances where the operator has to remodel or construct a new building.

Under the new rule, common use toilet facilities will require daily cleaning instead of as needed. Oregon OSHA believes the old rule had the same effect since daily cleaning was almost always needed. This was verified by comments from operators on the stakeholder committee. Cost for the few not in compliance will depend on the hourly rate of the employee doing the cleaning and the time it takes to clean the facility based on its size and condition. Based on a wage of \$8 per hour, this could cost \$16 for a small facility to \$64 dollars for a full day's effort.

The requirement for heating in living areas changes from being limited to certain months to an all-year requirement. Those who purchase portable heaters will incur an expense of \$40 per heater. Those who must rewire their facilities to accommodate the extra current the heaters require will incur an expense ranging from several hundred to several thousand dollars.

The new rule requires screens on all doors and windows. The old rule required screens when flies or mosquitoes are present. Since we know that flies or mosquitoes are present everywhere in Oregon, we believe that employers are already in compliance with the new rule and therefore, there will be no additional costs.

The new rules (effective January 1, 2018) requiring 100 square feet per occupant and a minimum ceiling height of 7 feet will only cause additional costs if housing operators elect to expand their facilities. In a survey of current housing operators, responses clearly indicated that many operators will choose the option of housing fewer people rather than incur expenses related to increasing capacity. The delayed effective date, along with others, gives operators time to plan their path to compliance. Many options are available, including current tax credits and options that may become available in the future.

The new requirement for ventilation windows or skylights retains the option for substituting mechanical ventilation. Therefore it is impossible to estimate how many housing operations will need to modify or install windows. Installations costs per window range from \$250 for simple installations to over \$1000 in units constructed of concrete block.

The requirement for burners in kitchens is now set at two for every 10 occupants, 2 families or part thereof. The old requirement was for enough to serve the number of occupants and Oregon OSHA believes that both requirements have the same end result, thus most employers are already in compliance. Cost of compliance for the few not already in compliance could range from \$50 for a single propane burner to several hundred dollars for a range or stove.

When these rules require the operator to get a building permit, there will be fees that vary by the nature of the project and the jurisdiction of the permitting agency.

#### **How were small businesses involved in the development of this rule?**

Members of the advisory committee were small employers or their representatives.

#### **Administrative Rule Advisory Committee consulted? Yes.**

##### **If not, why?**

A special advisory committee was organized for this project. Members included a cross section of employers (large and small), organizations representing employers, organizations advocating for workers and representatives of various parts of state government.

/s/Michael D. Wood  
Authorized Signer

Michael D. Wood  
Printed name

12/14/2007  
Date

**When does this happen:** Adoption tentatively will be February 2008

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