

Agriculture Labor Housing Rules Advisory Committee Meeting Minutes

September 28, 2007

Attendees Names:

Michael Wood
Barbara Belcher
Peggy Munsell
Claudia Marthaller
Scott Cully
Shelley Latin
Jerry Marguth
Karen Polehn
Ken Bailey

Attendees Names:

Marilyn Schuster
Trena VanDeHey
Ed Contreras
Jean Goodfrey
Marsha McBaine
Nargess Shadbeh
Peter Hainley
Dan Schellenberg

The following is an accounting of the discussion held during this meeting.
Opening remarks were made by Michael Wood, Administrator of Oregon OSHA.

The meeting began, following the opening remarks, with a lengthy discussion on the recent survey that was conducted. Comments included:

1. It would have been helpful to know where the people who responded lived
2. It was designed to be an anonymous survey
3. On the question about heating, was it “do you have heating”? It is important to know what the question was in order to assess the answer
4. A copy of the questions would be helpful to this discussion
5. OR-OSHA has lots of information on their web pages and this survey can be added
6. How was the question on tax credits worded? (Marsha McBaine was able to produce a copy of the survey form at this point)
7. Michael commented that perhaps this was not the right question to have asked when speaking about the tax credits. Almost all responses indicated that the tax credits were not sufficient.
8. Pre-1975 housing is grand-fathered
9. This raises the question as to how many units are actually grand-fathered
10. It was pointed out that if units were not older than 1975 they should meet the standards
11. What housing needs modifying to meet the 100 square foot standard
12. Not certain the survey takers knew what they were being asked/ Uncertainty of responders
13. The question was asked about what recommendations might be made based on the outcome of the survey and Michael responded that there was no intent to have the survey be the basis for any recommendations
14. Another question was asked from what part of the state the survey results were solicited
15. What part of the year are the units occupied and are there year round occupancies?

At this point, the proposed rules with a side by side of the current Federal regulations and the current OR-OSHA regulations was handed out to attendees. Conversation began with:

Issue # 1: Livestock within 500'

1. The rule is impractical
2. Does the draft language address short duration of large concentrates of livestock i.e. feed lots, dairy barns?
3. Does not express necessary prohibitions.
4. What about livestock you have no control over?
5. Provides some flexibility in rule to allow housing in low concentration dairy farms. An example would be a farmer who builds a new home and cannot use his older home because it is now within 500' of livestock. The concern is about the concentration of livestock.
6. It was suggested that more research be done and a rule drafted that is more specific.
7. Will it be okay to keep livestock in an area for two weeks? There is a problem with that language.
8. Did you intend to say that a single family dwelling such as the milker's house is always exempt?
9. It is not universally accepted by workers that close proximity to a dairy is a good thing.
10. Need to work something into the language about the need for a distinct separation between house and barn such as a barrier, etc.
11. The risk is the accumulation of waste, rodents, flies or any vectors of disease.
12. Because of all of the variable, the rule needs to be more subjective.
13. Marilyn indicated it is possible to adopt the Federal rule and issue interpretations that would be acceptable.
14. What about urban encroachment such as a neighbor moving in and putting llamas to pasture next to your housing?
15. Shelley suggested that employers may have to move their housing to protect workers if that scenario should occur. (neighbors moving next door with livestock)
16. It was suggested that CAFO (confined animal feed operations) permits may regulate one's ability to put a feed lot next to agricultural housing.
17. Shelley agreed to research what the CAFO permit requirements are and how they get approved.
18. Craft rules that do not give blanket exemptions to dairy / look at the number of cows for example that would be allowed.
19. Distance makes no difference / standards for cleanliness and disease control should be considerations.
20. The letter you relied on was about sheep. Is their output the same as a cow?
21. Logic applies the rule to pastures.
22. What is included in the definition of "livestock"?
23. The term "outside the control of the camp owner" is way too broad.
24. The exception does not protect the workers.
25. Issue was added to the Parking Lot – not considered resolved.

Issue # 2: Room sizes

1. The 7' provisional language needs to be retained.
2. The language for children in (k) & (A) needs to be deleted.

3. Also delete the scattered references to nuclear family in (m) & (n). Only the last sentence of (n) need be deleted.
4. Proposed language should have included the ETA language. The nuclear family issue is not a part of ETA.
5. ETA language allows 5', 6' spaces to be counted when determining square footage.
6. Grand-fathered housing needs to be addressed.
7. Is this really an issue for discussion around nuclear families? (page 14)

Issue #3: Distance of sleeping surface from floor

1. Define what is meant by "sleeping surface" 12" of the floor.
2. Where does the 12" begin?
3. Worker's pull the mattress pads off and place them on the floor. Will this be a violation?
4. If they are provided but not necessarily used as intended it most likely will not be cited.
5. 12" clearance will make cleaning easier.
6. This is about not requiring people to sleep on the floor rather than cleanliness.
7. Most expressed being comfortable with the language.
8. What is the intent? Ventilation? Some are boxed in.

Issue # 4: Wooden floor elevation

The language was agreed upon at the last meeting so no discussion was held. Nothing new added.

Issue # 5: Windows

1. ETA requirement is 1 window, skylight in habitable areas with minimum size listed.
2. Michael read the ETA standard for reference.
3. Some existing housing has only windows that do not open. All living areas do not have windows in some cases.
4. Marilyn pointed out that we tried to combine this requirement with current fire exit and BCD standards.
5. There is an issue of ventilation.
6. Windows that don't open do meet the criteria if there is adequate ventilation.
7. In some housing they are able to open an entire wall for ventilation.
8. Should upgrade technical standards to not allow opening of entire walls.
9. The current rule doesn't take into account the need for a window for purposes other than ventilation.
10. ETA does not provide for "no windows" either. ETA deals with issues around effective ventilation. Don't think the 1/10th is required by Building Codes.
11. There is an issue with the requirement for 1/10th of the floor area determining the size of windows.
12. It would be better if it read 10% of the living area should be windows. It is difficult to comply with 10% of individual rooms.
13. ETA requirement is that each room should have a window. Total window space should equal 10% of square footage.
14. Research with Building Codes should be done to determine if they regulate skylights.
15. We require every room to have adequate ventilation.
16. Each room is required to have an exit.

17. Functional ventilation may meet the effectiveness issue / if so, may not need a window.
18. Michael stated that there needs to be a provision for a window.
19. It was suggested that OR-OSHA not mandate what to provide / it makes more sense to allow the owner/grower to find the best technology.
20. In a standard 12 x 12 room a standard size window won't meet the requirements.
21. Each inhabitable room must have a window and the entire structure must have 10% window space per the ETA regulations.
22. The rule addresses two issues. One being ventilation and the group agrees on that need. The second issue of the 10% window space needs to be discussed with Federal OSHA.
23. We can look at camp registration data to see if there is any building construction dates or we can update the registration form to gather that data.
24. Can skylights be included in the 10% figure?
25. Each living quarter must meet the intent of the rule. Karen drew several pictures on the flip chart to demonstrate the difficulty under some circumstances to meet the requirements.
26. It was pointed out that the 10% figure is arbitrary.
27. Since the ETA allows skylights, can we use some and what are the rules for installation?
28. Marilyn pointed out that we can write a different rule that is just as effective if we need to.
29. What about the mold and mildew issues with windows?
30. Mold generally is formed in cool, dark, damp environments.
31. There should be natural light in rooms and there should be adequate ventilation.
32. We need to stick with the 10%.
33. Not everyone agrees with the 10% requirement for windows.
34. Can a part of the 10% requirement be met with the installation of skylights?
35. OR-OSHA is amenable to combining windows and skylights to meet the 10% requirement.
36. What about the use of solar tubes?

Issue # 6: Phase out date – 60 square feet

1. Post 1975 – 100 square feet is required now.
2. Suggestion to start phasing out old housing within the next 10 years. (10 yrs being an arbitrary number) Or require upgrades.
3. Phase out the grand-fathered camps.
4. If we were to have a phase out schedule in place and the Feds establish a phase out schedule, most likely we would be able to stand by our schedule according to Michael.
5. How much of a hardship would be caused to those with pre 1975 housing? Survey shows the cost for those who responded.
6. Many of the owners will need to make adjustments to be in compliance with the new rules anyway.
7. As to the tax credits, most years the housing agency does not run out of tax credits because the growers are not taking advantage and using them.
8. Some of us would like to see a phase out sooner than 10 years.
9. If tax credits are used could OR-OSHA stipulate a shorter time frame? OR-OSHA cannot stipulate.
10. It may not be economical to invest money in some of the older housing.
11. The overall feeling of the committee is that 10 years for phase out may be a good middle of the road expectation.

12. It was also suggested that these could be a two tier system. One time frame for those using tax credits and another for those using their own money.
13. Some would probably have to build new housing.
14. Some pre 1975 housing is still pretty decent.
15. Most of the committee agreed that an end date should/could be identified.
16. Let's stay with the 10 year suggestion for now.

Issue # 7: Number of Burners

1. We used burners because they are easier to define than stoves.
2. You cannot replace stoves or burners with microwaves.
3. Always will need a minimum of two burners.
4. Facilities vs the number of people is an issue.
5. Need to increase the ratio.
6. In many places you will see people standing in line for cooking, restroom and shower facilities.
7. Changing the ratio of burners may be impacted by the amount of available counter space.
8. Federal OSHA agrees that 2 burner language is a good idea. A stove with 4 burners would be sufficient for 4 families or 20 people. 2 burners would meet the requirement for 2 families or 10 people.
9. A couple of people expressed a desire to increase the number of burners required because the cost is minimal as would be the effort to achieve this. The issue could dramatically improve worker's living conditions.
10. Others in the group felt we should stay with OR-OSHA's requirement to be as compliant as the Feds.
11. Suggested that language be added "a portion thereof" to the 2 burner requirement of 2 to 10 people.

Issue # 8: Portable heaters

1. This issue was agreed upon at the last meeting.
2. It was pointed out, however, that some believe the word "adequate" need to be added.
3. Or, language that states "capable of maintaining a temperature of 68 degrees" should be added back in.

Issue # 9: Water Supply

1. This is not up for discussion today. Issue was added to the Parking Lot.

Issue # 10: Water at 15psi

1. Check with Building Codes to see what they require.
2. The 15psi is meant to be on the low end, as a minimum. This means when every spigot, toilet, etc. is turned on.
3. There was some expressed concern over how much control one might have since the water may be supplied by the city or the county and you have to take what you get.
4. Discussion over what is "ample" and how is it measured – along with issue #9.

Issue # 11: Potable water

1. There should be an "and" added following (7)(f)(A).

Issue # 12: Toilet rooms

1. Should a requirement for ventilation be added?
2. Ventilation is already included elsewhere.
3. We need to ensure it is understood that access at all times is the requirement even if one must pass through a space occupied by another occupant.
4. The interpretation issued by Federal OSHA can be provided to this committee.
5. Pull the language from the interpretation and include “not subject to being locked, etc.”.
6. You may disregard the Federal section on “passing through sleeping room”.
7. No toilets are allowed in any room other than the bathroom.
8. What exactly does accessible mean?
9. Do we need the term “readily available”?
10. Locked is not “available”.
11. Does having to go through a sleeping space make it unavailable?
12. Some housing locates bathrooms in places that require passing through sleeping areas.
13. The intent of the rule is about “accessibility” rather than “privacy”.
14. We probably need to add “not subject to being locked”.

Issue # 13: Privies

1. Workers want them as close as possible. Rule only applies to privies.
2. The issue will be proximity vs sanitation issues.
3. Keep a minimum distance that is already in the rules in (12)(a).

Issue # 14: Cleaning toilets

1. Need to try to make a distinction between common use areas and individual areas.
2. Clarify what “common use” is.
3. Clarify the difference between “cleaning” and “servicing”.
4. What constitutes full? What is the industry standard for determining fullness?
5. We believe if the toilet is being used by “unrelated individuals” it is “common use”.
6. Define common versus unrelated in the rule then.
7. Issue was added to the Parking lot: What is the industry standard for what is considered “full”.

Issue # 15: Laundry facilities

1. The mandate to provide laundry facilities has been removed. Replace the stricken rule with the Federal rule. Language needs to be added “ shall be provided”
2. The ratios in the rule are not reasonable. Language should be changed to 1 and 50 if you have mechanical washers.
3. Proposal is to drop the “available within 5 miles” language and adopt the Fed language.
4. The rule should read 1- 25 or 30 and you should take out all reference to mechanical washers and dryers.
5. Use of drying lines may not be feasible due to inclimate weather conditions.
6. What about floor drains? (this is addressed in another Issue)
7. We can come back and discuss the 25 to 30 ratio.
8. 1 machine / 1 tub is not reasonable. People will be standing in line and doing laundry may last well into the night.

9. What would be enough clothes drying line? The rule should read “to ensure workers can dry their clothes”.
10. If mechanical washers are provided can the requirement for trays be changed?
11. Trays must still be provided even with mechanical washers?
12. Suggestion was made to change the tray ratio to 1 & 50.
13. Take out mechanical washer reference and have a tray ratio of 1 & 30.
14. Haven't heard any complaints about clothes drying lines.
15. Workers bring minimal amounts of clothes so they need to be able to dry them quickly.
16. Whatever is used there needs to be some assurance that clothes will dry timely.
17. Suggestion of language to read “Laundry facilities shall be provided in the housing area, must have trays or tubs or mechanical washers or a combination thereof, with hot and cold water in the ration of 1 for each 30 occupants ,or a portion of.” With the removal of (A) and second sentence in (c) in the draft document.

Issue # 16: Hand washing facilities

1. Location requirement is an issue.
2. The intent was that they be adjacent to the buildings.
3. Is a kitchen sink considered a basin for the purpose of this rule?
4. Perhaps the language “adjacent to” should be removed because it is not in the Fed language.
5. Sinks in food preparation areas do not count.
6. Allowing one basin for 15 occupants was a concern of the Feds.
7. Kitchen sink does not always have a sanitary surface.
8. We think the general public would have a concern with this.
9. The “NOTE” need to be removed from this rule.
10. Either look at the “adjacent” language or write the NOTE in reverse.

Issue # 17: Shower heads

1. Remove (A) because it is now a moot point.
2. How much hot water is going to be considered adequate or abundant?
3. We can discuss this with Federal OSHA.
4. Some on the committee believe that adequate means everyone should be able to shower without having to wait for a recovery time.
5. Need to remove (9)(b)(A) from the rule.
6. Is there a regulation for placement of shower heads for “gang showers”? (NO) However, ETA states 3' apart for gang shower shower head placement.
7. What amount is required for an adequate supply of hot water?
8. ½ hour recovery time after tank is exhausted is requirement for school showers. This is apparently based on research. Begs the question of how many showers would exhaust the supply?
9. 35 gallons per person is required
10. How much would be required for showers, laundry, etc? How much is adequate for everyone to take a hot shower?
11. Gas has a shorter recovery time.
12. We should interview occupants to see if current amounts of hot water are adequate.
13. This is a performance based standard.
14. The Feds would probably not see a bathtub as a substitute for a shower head.

15. You are required to have hot and cold water under pressure and if you run out of hot water you are not in compliance, how does that work?
16. Could have a tub/shower combination though and meet the intent.

Issue # 18: Laundry room floor drains

1. This is being proposed for common use areas.
2. Remove the word floor. Some washers may be plumbed to the outside and a floor drain may not be needed.
3. Should include the Federal language – needs to have a drain- leave out any designation as to the location of the drain.
4. Say, for example, “must have drains to remove waste water from the laundry rooms”.

Issue # 19: Heat in Common use areas

1. We have proposed ours at 68 degrees because the Federal standard is 68 degrees.
2. 68 degrees is the norm for heating buildings.

Issue # 20: Common use garbage cans

1. Common use garbage cans must be emptied twice a week
2. Bins and dumpsters must be emptied when full.
3. Let’s add “or becomes a health hazard” after the word “full”.
4. The time frame proposed for “when full” may allow for some “stewing” of the dumpster.
5. Can we establish a minimum time frame for dumpsters instead?

Issue # 21: Operations of dining facilities

1. This issue needs further discussion. Issue was added to the Parking Lot. What are the Health standards for permit requirements if they are not selling the food to outside sources?

Issue # 22: Separation of dining and sleeping quarters

1. This does not apply to single family housing.
2. This applies to common use areas only.
3. You need to clarify (G).
4. You also need to double check the requirements for refrigerator temperatures. Is 45 degrees still applicable? This is found in (19)(a).
5. This is addressing “dining halls”.

Issue # 23: Operation of dining facility

1. Does this rule only include your employees?
2. It does not mean to address the single family cooks.
3. Includes anyone with this duty.

Issue # 24: Health reporting

1. There was no discussion on this issue.

Issue #0: Tents

1. This would be considered employee provided housing. Should not be provided by owners.
2. The Feds do not exempt.

3. Keep in mind that if you operate a camp you are responsible for facilities used regardless of who provides them.
4. If an employee decides to pitch a pup tent, but you have provided quarters, that would be okay.
5. Tents that don't meet the intent of the rule will not be used to increase the square footage requirement for occupancy.
6. Recreational vehicles provided by employees will not be considered in measurements if using the camp at capacity.
7. If you provide the square footage it can be included in the camp footage figures.
8. Concern is that the way this is written will allow employees to sleep in their cars and that is not good.
9. There is a concern about being able to abuse this. Camp owners could feasibly start requiring RV's and discontinue providing beds.
10. When employees provide tents they must comply with the rules.
11. An RV rated for an occupancy of four could be used but an employer cannot provide it to increase the occupancy of the camp.

Some items were put into a **Parking Lot** to be discussed at a later time. Those items included:

1. 10% windows / what are some options?- Issue #5 Is ventilation or light the intent? Add ETA language?
2. Ratios for all standards need some discussing.
3. Issue # 9 needs to be discussed at a later meeting.
4. Industry standard for filling of toilets. (portable chemical toilets) Issue #14
5. What are the Health standards for permit requirements when contracting dining responsibilities – Issue # 21. What are the requirements for handlers that are **NOT** selling food to outside sources?
6. What are the screening and sheltering requirements in kitchen facilities?
7. Issue #1 not resolved. Would the language in the proposed rule need to be changed?

The meeting was adjourned and a date will be established for the next meeting and e-mailed to participants soon.