



**POLICY MEMORANDUM**  
**Oregon Occupational Safety & Health Division**

May 20, 2008

**TO:** ALL OSHA  
**FROM:** Marilyn Schuster, Policy Manager  
**SUBJECT:** Ag Labor Housing

1. Will it be acceptable to have portable heaters available in the office to be checked out for use in a living and/or sleeping space ?

The rule is silent on where the heaters must be but they must be easily available or it defeats the purpose of the rule. So if an occupant wakes up cold at 3am they shouldn't have to trek through the orchard to your office or house and pound on the door to wake you up and get a heater. If you have them in an accessible storage closet at the end of a row of cabins that would be OK. (16)(c)

2. Will a laundry tub and /or kitchen style sink qualify as a hand-washing sink?

The rule says hand-washing sinks must have hot and cold water under pressure. Further, the common conception of a sink or basin is a device with faucets and a drain. This means they must be plumbed. Since you can't plumb a drain into a tub, tubs do not qualify. Any style plumbed sink will do. Locate all hand washing facilities according to paragraph (10)(a).

3. Do laundry tubs and lines need to be in a building or can they be out of doors?

The rules do not require laundry facilities to be in a building. However, if you opt for washers, they would have to be under cover to prevent rain from causing electrical problems. Drying facilities must be effective. This means clothes lines that are not under cover could be a problem in areas where there is frequent rain or where use is year-round. (11)

4. Can a refrigerator be in a sleeping room?

There can be no food preparation devices, like stoves, in a sleeping room. If the occupants store or consume their own food, this is not a violation as long as the food requires no preparation. Having some fruit in an ice chest or consuming convenience food like chips or cookies is not a violation. See answer 6 below.

5. Can a counter be in a sleeping room?

A sleeping room can have a counter.

6. Can there be any food storage (not food preparation) in a sleeping room?

The only food storage allowed in a sleeping room is what the occupant may provide. OR-OSHA will not cite the operator if the occupant keeps food in their footlocker or in closets or other storage devices that come with the room. See paragraph (1)(g) of the rule.

7. Can there be a table and chairs in a sleeping room?

Sleeping rooms can include a table and chairs.

8. If you are partitioning a room to include a kitchen and/or living area as well as the sleeping area, how high does the partitioning wall need to be? Example: In a room with peaked ceilings greater than 7 feet, does that partitioning wall need to extend to the ceiling peak? If not, what is the minimum height requirement for the partitioning wall?

Our rules are silent on the specifications for partition walls in living areas. The major impact of partitioning would be in the calculation of square footage. If you partition a sleeping area out of a living area, the sleeping area must have the square footage required by the rule. Paragraph (16)(o) requires that partitions provide privacy when the area is occupied by unrelated persons of different genders and for each family unit.

9. What kind of barrier, if any, is required in a wall that partitions a sleeping room from the kitchen or living area? Example: Curtains, solid door, or other?

The rule is silent on whether rooms in a living area need doors or other barriers, however by common definition it takes a wall or solid partition of some kind to create a room. Merely hanging a curtain or tarp does not divide one room into two rooms.

10. Where the room is air conditioned does the 10% of floor space window rule apply for purposes of ventilation and are all exterior doors and windows required to be screened for ventilation?

The requirement for windows and screens has multiple purposes. Air conditioning might mean the screens were unnecessary for ventilation but they would still be needed as a fly and mosquito barrier during those times when occupants would rather have the doors or windows open instead of using the A/C. The rule about windows is for ventilation and lighting. Air conditioning would not satisfy the lighting issue nor would screens. (16)(p)

11. Window to floor space, on the 10% rule, is it the actual floor space, or is it required space per number of occupants?

When calculating needed window area you begin with the required floor space as determined by the number of occupants. (16)(p)

12. Are heat lamp units, such as those used in hotel bathrooms, an acceptable source of heat?

The rule requires a source of heat capable of keeping the entire living area at 68 degrees. It is unlikely that a heat lamp could be effective for an entire living area but they might work for a small part like a bathroom. (8)(d) & (16)(c)

13. May window materials other than glass be used? (i.e. fiberglass, Plexiglas, or other synthetic materials) May glass or non-glass window materials be opaque or defused for privacy?

The rules are silent on what type of glazing can be in windows. It must allow light to enter the room. Privacy material is acceptable just as in private homes. (16)(p)

14. May sliding glass doors be used as part of the 10% window requirements?

Sliding glass doors (like patio doors) are acceptable toward the 10% window requirement but must meet all other applicable rules like the one requiring screens. (16)(e) & (p)

15. When measuring between upper and lower bunks, is the 27" clearance from the top of the lower bunk mattress to the bottom of the upper bunk?

The ETA required distance between bunks is measured from the top of the mattress on the lower bunk to the lowest part of the upper bunk.

16. How will the 500 feet livestock rule be applied when a neighbor's property line is within 500 feet of an established housing unit and the neighbor chooses to have livestock on their property?

The rule uses and defines the term "livestock operation." Thus, if your neighbor just has a few animals at pasture, there is no issue. However, if the neighbor starts a confined feeding operation or other "livestock operation," Oregon OSHA would have to assess the particular circumstances to see if there was a violation. Among the issues would be significant numbers of vectors like flies, waste runoff or collection, and any other issues that could impact the health of the ALH occupants. This requirement is very case-specific and a variance might be one solution. However, operators cannot simply ignore the case when a neighbor's actions create a problem for ALH occupants. Working with the OR-OSHA technical staff would be the best approach. (16)(i)

17. In a cabin that has a kitchen and bathroom included, is the square footage of the kitchen and bath part of the 100sq. ft. per person requirement?

If a cabin has a kitchen and/or bath, the entire interior measurements of the cabin determines compliance. You do not deduct for sleeping areas, kitchens or bathrooms. (16)(i), (j) and (l)

18. Is full time employee housing that is rented from the employer subject to ALH rules?

Oregon OSHA's ALH rules cover all housing provided in connection with employment. See paragraph (1)(d) of the rule. It is the registration requirement that has a more narrow application.

19. Are we required to "police" the personal living habits of our employees? (i.e. leaving food on the stove in pots while out to work, not refrigerating eggs, pulling mattress off a bunk frame to sleep on the floor?)

Operators of ALH are not responsible for the personal housekeeping practices of the occupants. See paragraph (1)(g) of the rule. We expect operators to use reasonable diligence in checking cabin interiors while respecting the privacy rights of occupants.

20. Are lofts acceptable in cabins where the roof peaks are at least 14 feet high?

Lofts are acceptable in cabins as long as all room space requirements are met. The most likely issue would be to assure a 7-foot ceiling height and safe means of entry and exit from the loft.

21. For garbage pickup, are the 30-60 gallon garbage containers acceptable if we pick the garbage up in the camp on a daily basis? How far away from a living area would they have to be?

For garbage handling, you may have a large bin or dumpster. The rule requires individual containers, like cabin cans and containers in common use areas, be emptied when full or twice weekly. The dumpsters must be emptied weekly or when full. The rule is silent on where to locate the dumpster. (15)

22. Is carpeting an acceptable floor covering especially in a home for full time employees?

The rule requires floors to have a smooth and cleanable surface. Carpeting could meet the intent of that rule if used in appropriate locations. Carpeting in the kitchen, bathroom or laundry room would not meet the intent of the rule. Carpeting in sleeping areas and family rooms would meet the intent of the rule. Low pile carpeting would be a smooth surface, shag would not. (16)(b)

23. Does an openable screened window in a door qualify as a screened door?

An openable window in a door is acceptable toward the 10% window requirement and, if screened, there is no need for an additional screen door. (16)(p) & (e)

24. What is a screen door? Is it a screen door when a hole is cut out of a solid door? If so, how big of a hole must it be (e.g. 50% of door)?

We cannot provide a finite amount of the door that must have screening. When converting doors, the door's structure can dictate how much space is available for a window/screen insert. Use professional judgment. Contact technical if you encounter a situation that has no obvious solution. (16)(e)

25. In a cabin that has been divided for the purpose of having a sleeping room of 50sq. ft. per person and another room for living, cooking, and sleeping space of 100 sq. ft. per person, how is that cabin really measured?

Calculate the required square footage for sleeping rooms separate from other areas. If all occupants of a cabin sleep in a sleeping room(s) then calculate the needed square footage for that room. Since nobody sleeps in the other area, it is not a sleeping, living and cooking area and thus there is no requirement for that area. If some people sleep in the sleeping room and some sleep in the living area you calculate the square footage for each separately. (16)(i), (j) & (l)

26. In a cabin that has been divided to have a sleeping room of 50 sq feet per person and the other room for their living and cooking area, how is that cabin really measured since it does have a sleeping portion?

See the answer to question #24.

27. Are we required to provide a 30 gallon garbage can if the employees carry their own small sacks to the dumpster that is dumped twice a week.

No. The rules says you must provide 30 gallon cans OR a larger container per 15 occupants. When choosing an option be sure to note other rules about how often containers must be emptied and the need to have a lid that closes fully. (15)(b)

28. In the note following paragraph (10)(a) it says sinks in food prep areas can be counted as up to half the required hand washing facilities. Does this include common area food prep sinks?

Yes, this includes all sinks that are available for hand washing. Sinks in a locked central kitchen or that you have designated for other purposes would not be available.

29. In paragraph (16)(p) what is “adequate mechanical ventilation” and does it require air circulated directly from the outside?

Adequate mechanical ventilation will depend on the circumstances of each cabin. The cabin configuration and activities of the occupants will be significant factors. It is unlikely that a small bathroom-type fan would be adequate for a 400 square foot cabin.

30. In paragraph (17)(b) on smoke detectors, how do we address year-round camps?

The requirement is to have a working smoke detector at the time of initial occupancy. For units that are occupied continuously, we expect the operator to check the alarm at least annually or as often as the manufacturer’s literature requires. Initial occupancy refers to a change of occupants not a change of season. When all occupants of a cabin move out and new move in, that is initial occupancy.

31. In paragraph (17)(c) on fire extinguishers, must the ALH operator comply with all the requirements of subdivision L?

Certain requirements in subdivision 4/L would not apply as they would in a shop or work area. However, the rules that require checking and maintenance of the extinguishers do apply to all extinguishers on the ALH site. Mostly, items that might not apply would be for extinguishers inside private living space. Then paragraphs 5 and 6 about keeping the area around extinguishers clear would fall under the exemption in paragraph 1120(1)(g). All other parts of 4/L apply.

32. About paragraphs (18), (19), and (20) of the ALH rules. Some camps have outside cooking/food prep areas only. Are these allowed?

The federal requirement is that common use food preparation areas be in an enclosed and screened facility. This is the controlling criteria. Having only the burners outside is allowed but having the food storage or preparation area outside is only allowed if they are in an enclosed, screened area. While we inadvertently omitted this requirement from our latest version of the ALH rules, it will be inserted soon.

33. Will the required square footage for windows be calculated for the entire cabin or for each room?

This calculation is for the entire cabin.

34. We need further guidance or interpretation about the 12" above ground/wooden floor requirement [(6)(q)]. How to measure? Where to take the measurement? What should be considered the "lowest point" (e.g. joists)? What about dirt being pushed up against structure?

The measurement should be from the dirt to the bottom of the floor joists. Wooden support posts and other support or trim items are not the target of this rule. There once was a note that said that this rule does not prohibit "banking." In some applications it is necessary to place dirt banks near the structure. There is no rule to prevent dirt against the structure. However, if the dirt causes the usual problems, there are other rules to cite. If a point appears to be questionable, simply reaching in to measure is acceptable. This can also be determined visually from the crawl space access point.

35. What is an adequate supply of hot water [(8)(a)]? How long is too long for a water heater to regenerate enough hot water?

The interpretive letter dated December 12, 2000 is still valid except for the reference to part of the rule we deleted about the age of children. Both OSHA and Oregon OSHA have long considered the hot water rule to be a performance standard. The measure of adequate hot water is not based SOLELY on how long the occupants must wait. In a small camp with only two showers the occupants may have a long wait simply because the people ahead of them take forever. We quote the final part of the interpretation mentioned above:

Oregon OSHA believes that the best method to determine the adequacy of the hot water supply in labor housing is to evaluate information supplied by the occupants during interviews conducted by OR-OSHA personnel. Regardless of requirements set by our standards, the determining factor remains, is there enough hot water available for occupants to shower, launder clothes and for other uses. The determining factor of whether there is enough hot water should be based on the experiences of the occupants. This testimony would also be our best legal defense of any citations issued for an insufficient supply of hot water.

If during talks with occupants you discover a pattern or multiple incidents where water is not sufficient, a citation would be in order. Single or isolated incidents are not sufficient.

36. There was mention of a recall notice from a few years back regarding portable heaters...can it be distributed again? What if the manufacturer of the portable electric heater doesn't allow it to be used in bathrooms or near bathing facilities?

OAR 437-004-2810(15) is the applicable rule. "Follow manufacturer's instructions or recommendations when installing listed or labeled equipment."

We have found the recall on the web. Feel free to distribute it.

<http://www.cpsc.gov/cpsc/pub/prerel/prhtml02/02531.html>

37. During BOLI's presentation, there was some discussion around their PPE requirements and ours. Does OSHA's upcoming PPE rule revision (who pays?) affect BOLI's requirement (or vice versa)?

The rules complement each other. BOLI's rule does not affect our rule.

38. Calculating square footage in living area v. sleeping rooms. Do we calculate the entire living area even if partitions/walls are built forming sleeping rooms? There was much discussion of how this was allowed in the past to gain capacity.

In contrast to what was said at the training, calculate the required square footage for sleeping rooms separate from other areas. If all occupants of a cabin sleep in a sleeping room(s) then calculate the needed square footage for that room. Since nobody sleeps in the other area, it is not a sleeping, living and cooking area and thus there is no requirement for that area. If some people sleep in the sleeping room (50sqft/ea) and some sleep in the living area (100sqft/ea) you calculate the square footage for each separately. The area cannot be a sleeping room if the operator provides a food preparation surface, refrigerator or other items related to preparation of food. See questions 5, 6 and 7 for more info. The counter is OK as long as it is not provided for food preparation.

39. There was confusion around fire extinguishers and the hose option [(17)(c) and Note]. What if a hose can reach all points of the site? Does it matter that a worker would have to run 500 feet to turn the hose on?

The rule says the hose substitutes for extinguishers. It does not say the conditions change because of that substitution. Thus, occupants should never have to travel more than 50 feet to get to the point where they turn on the water. This could be the end of the hose if the water is always on but most often will be the connection point.

40. Does an outdoor, covered cooking area have to be screened?

The federal requirement is that common use cooking facilities be in an enclosed and screened shelter. This is the controlling criteria. Common use cooking facilities as used in this context includes food preparation areas. While we inadvertently omitted this requirement from our latest version of the ALH rules, it will be inserted soon. Outdoor, covered cooking areas that are not for common use have no requirement. Thus moving the burners for each cabin outside does not trigger any new requirements. In order to assert that the outside burners are not for use by any or all members of the housing, the operator would have to have burners outside all cabins. Only then would it be logical that occupants of one cabin would have no reason to use the burners for another cabin.

41. There was a question about employee provided housing.

The bottom line for all employee provided housing is that it must be over and above the housing required by the camp occupancy permit. It must be entirely the occupant's choice to live in their own housing instead of what we require the ALH operator to provide. If the occupant(s) move into their own housing, the ALH operator cannot place people in the vacant units as that would cause the facility to exceed its permitted limit.

42. Do double sinks count as one or two sinks?

Double sinks similar to those found in modern kitchens are sold as one sink and meant for use with one faucet. We consider them one sink for purposes of our rule. If the operator installed a faucet for each half we would say they are two sinks. Historical application by individual staff has not always reflected this position. Operators with issues because of this interpretation should contact the technical section of OR-OSHA for assistance. (10)

43. Is there a number of occupants in a single area that makes the area a dormitory?

No. That determination is more a product of the layout and use characteristics of the area.

44. If a living or sleeping area has two doors must they both have screens?

Any doors used for routine entry and/or exit must have screens. Doors used only as fire exits do not need screens. (16)(e)

45. What is adequate lighting in the sleeping/living areas?

Paragraph (6)(l) gives the basic lighting requirement. If the unit meets that and meets the requirement for 10% window space we must presume the lighting is adequate. (16)(p)