



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Labor and Industries

- Preproposal Statement of Inquiry was filed as WSR 14-13-089 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information: Chapter 296-307 WAC, Safety Standards for Agriculture, Part L, Temporary Worker Housing and Part L-1, Cherry Harvest Camps and Chapter 296-833 WAC, Temporary Housing for Workers.

Hearing location(s):
 Department of Labor and Industries Headquarters
 Rooms S117 and S118
 7273 Linderson Way SW
 Tumwater, WA 98501

Date: January 6, 2015 Time: 9:00am

Department of Labor and Industries – Yakima
 15 W Yakima Ave Ste 100
 Yakima, WA 98902

Date: January 8, 2015 Time: 9:00am

Submit written comments to:

Name: Tari Enos
 Address: 7273 Linderson Way SW
 Tumwater, WA 98501
 e-mail tari.enos@lni.wa.gov
 fax (360)902-5619 by (date) January 15, 2015

Assistance for persons with disabilities: Contact

Tari Enos by December 23, 2014
 TTY (360) 902-5541 or (360) 972-4650

Date of intended adoption: February 24, 2015

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to rewrite and clarify existing requirements relating to temporary worker housing and cherry harvest camps. The Department of Labor and Industries (L&I) and the Department of Health (DOH) have joint rules for licensing, operation and inspection of temporary worker and cherry harvest housing as required by RCW 70.114A.065 and RCW 49.17.310 to enforce these rules. L&I is also proposing consolidating the cherry harvest camp requirements in with temporary worker housing for cohesive purposes. See Attachment 1 for a citation of rules affected.

Reasons supporting proposal:

The reasons supporting the proposal of updating the temporary worker housing rules is so L&I and DOH will be able to enforce the joint rules consistently and not confuse employers by having different regulations.

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.300 and 49.17.310.

Statute being implemented: Chapter 49.17 RCW

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION: _____

DATE
December 2, 2014

NAME (type or print)
Joel Sacks

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: **December 02, 2014**

TIME: **2:16 PM**

WSR **14-24-108**

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Department of Health

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Lena Wang	Tumwater, WA	(360) 902-5516
Implementation.... Anne Soiza	Tumwater, WA	(360) 902-5090
Enforcement..... Anne Soiza	Tumwater, WA	(360) 902-5090

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Tari Enos
Address: 7273 Linderson Way SW
Tumwater, WA 98501

phone (360) 902-5541
fax (360)902-5619
e-mail tari.enos@lni.wa.gov

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Tari Enos
Address: 7273 Linderson Way SW
Tumwater, WA 98501

phone (360) 902-5541
fax (360)902-5619
e-mail tari.enos@lni.wa.gov

No: Please explain:

CR-102 Rulemaking Order (RCW 34.05.320)
Department of Labor and Industries - Division of Occupational Safety and Health
CR-102 Filing Date: December 2, 2014
Hearing Date: January 6th, 2015

Attachment (1)

New Sections

WAC 296-307-16104 Technical Assistance – Notice of Violation.
WAC 296-307-16127 TWH management plan.
WAC 296-307-16147 Tents.
WAC 296-307-16149 Carbon monoxide alarms, smoke detectors and fire extinguishers.

Amended Sections

WAC 296-307-161 Temporary worker housing.
WAC 296-307-16101 Purpose and applicability
WAC 296-307-16103 Definitions.
WAC 296-307-16115 Maximum housing occupancy.
WAC 296-307-16120 Variance and Procedure.
WAC 296-307-16125 Temporary worker housing sites.
WAC 296-307-16130 Water supply.
WAC 296-307-16135 Sewage disposal.
WAC 296-307-16140 Electricity and lighting.
WAC 296-307-16145 Building requirements and maintenance.
WAC 296-307-16150 Laundry Facilities.
WAC 296-307-16155 Handwashing and bathing facilities.
WAC 296-307-16160 Toilet facilities.
WAC 296-307-16165 Cooking and food-handling facilities.
WAC 296-307-16170 Cots, beds, bedding and personal storage.
WAC 296-307-16175 First aid and safety.
WAC 296-307-16180 Refuse disposal.
WAC 296-307-16190 Disease prevention and control.
WAC 296-833-100 Scope.

Repealed Sections

WAC 296-307-16105 Operating license.
WAC 296-307-16110 Requirements for self-survey program.
WAC 296-307-163 Cherry harvest camps.
WAC 296-307-16301 Purpose and Applicability.
WAC 296-307-16303 Definitions.
WAC 296-307-16305 Technical assistance.
WAC 296-307-16310 Operating license.
WAC 296-307-16315 Maximum camp occupancy.
WAC 296-307-16320 Variance and procedure.
WAC 296-307-16325 Cherry harvest campsites.
WAC 296-307-16330 Water supply
WAC 296-307-16335 Sewage disposal.
WAC 296-307-16340 Electricity and lighting.
WAC 296-307-16345 Tents.
WAC 296-307-16350 Recreational vehicles.
WAC 296-307-16355 Laundry facilities.
WAC 296-307-16360 Handwashing and bathing facilities.
WAC 296-307-16365 Toilet facilities.
WAC 296-307-16370 Cooking and food-handling facilities.
WAC 296-307-16375 Cots, beds, bedding and personal storage.
WAC 296-307-16380 First aid and safety.
WAC 296-307-16385 Refuse disposal.
WAC 296-307-16390 Insect and rodent control.
WAC 296-307-16395 Disease prevention and control.

**Small Business Economic Impact Statement
For WAC Chapters
296-307 Part L, Temporary Worker Housing and 296-307 Part L-1, Cherry Harvest Camps**

December 2, 2014

Describe the proposed rule, including: a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

The Department of Labor and Industries (L&I) is updating its rules for operation of Temporary Worker Housing (TWH) provided by agricultural employers and other licensed operators for seasonal use by migrant farm workers.

The proposal includes amended and new sections in chapter 296-307 WAC, Part L, Temporary Worker Housing, and the entire chapter 296-307 WAC, Part L-1, Cherry harvest camps, is proposed for repeal, and its content moved to appropriate sections of chapter 296-307 WAC, Part L. Repealing the cherry harvest camp rules and moving their content to the remaining chapters eliminates duplication and is intended to make the rules clearer.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The 1999 Washington State Legislature passed ESSB 5599 that requires the Department of Health (DOH) and L&I to adopt joint rules for the licensing, operation and inspection of temporary worker housing (TWH), and the enforcement of those rules. DOH and L&I are required to establish and maintain a formal agreement identifying the roles of each agency with respect to enforcement of TWH rules. Statutory authority is granted under chapters 70.114A RCW, 49.17 RCW, 43.70 RCW, and 29 Code of Federal Regulations (CFR) 1910.142, 20 CFR 653 and 655 Subpart B.

Explain how the department (L&I) determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

Chapter 49.17.300 RCW through chapter 49.17.320 RCW set the broad framework for regulating TWH on-site operations. Rules are needed to establish TWH standards with adequate specificity for compliance and enforcement.

The proposed revisions help L&I meet the intent of the underlying statutes by providing clearer rules and a streamlined process for operators of seasonal migrant farm worker housing. L&I has also determined that TWH rules must be revised to be consistent with federal migrant farm worker housing standards in 29 CFR 1910.142.

Not revising the TWH rules would be inconsistent with underlying state and federal statutes, inconsistent with current administration of the program, and leave operators and migrant farm worker occupants with unclear and inconsistent standards for TWH facilities. Without amending the rules, the department may not be able to effectively implement the TWH program, and could face difficulties in enforcing rules that are unclear or are inconsistent with current state statutes or federal regulations.

Table A: Selected agricultural businesses required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and minor cost thresholds under RCW 19.85.020.

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	Number of businesses in WA (2013) ^{1*}	Minor Cost Threshold = 1% of Average Annual Payroll 2012 ²	Minor Cost Threshold = 0.3% of Average Annual Receipts 2013 ¹

¹ Washington State Department of Revenue, 2013 data. Percent of revenue is based on the total 2013 reported gross business income by NAICS category, divided by number of businesses reporting, and multiplied by .003. See the note after Table A.

² Washington State Department of Employment Security, 2012 average wage data, the latest full-year data available. Percent of payroll is based on the total 2012 reported wages paid by NAICS category, divided by the number of firms reporting, and multiplied by .01. See the note after Table A.

11121	Vegetable and melon farming	109	\$3,766	\$2,728
111331	Apple orchards	56	\$5,862	\$3,064
111332	Grape vineyards (without wine making)	25	\$2,681	\$295
111333	Strawberry farming	6	\$1,599	\$514
111334	Berry farming, except strawberries	55	\$9,499	\$8,578
111336	Fruit and tree nut farming	9	\$5,942	\$809
111339	Other non-citrus fruit farming	50	\$2,386	\$388
111998	General combination crop farming	123	\$5,322	\$554
312130	Grape farming and making wine	673	\$2,679.87	\$1,827

* Note: There are significant differences in how businesses provided data to the state departments of Revenue and Employment Security. For example: 56 businesses reported 2013 income data to Dept. of Revenue as “apple orchards” under NAICS number 111331, while 917 businesses reported 2012 payroll data to Dept. of Employment Security as “apple orchards” under NAICS number 111331. These differences impact the calculation of payroll and income thresholds to determine if a SBEIS is required for the proposed rules. The Department of Health is unable to reconcile these differences to present a single number of businesses in each NAICS category with available data.

Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

Due to the wide variety of configurations of licensed TWH, and because many existing TWH facilities may already meet some of the proposed requirements, it is not practical to estimate the aggregate costs of these proposed rules on individual TWH licensees or to all TWH licensees. This analysis in most cases represents per-unit costs to comply with proposed rules.

The following proposed WAC sections may be likely to result in costs (or in some cases reduce costs) of compliance for TWH businesses that must comply:

A. Chapter 296-307 WAC, Part L, Temporary worker housing

1. WAC 296-307-16115 Maximum housing occupancy.

The proposed rule changes the minimum square footage in TWH rooms used for both sleeping and kitchen purposes from 50 square feet *per occupant* (plus 20 square feet for the first occupant), to 100 square feet *per temporary worker* consistent with 29 CFR 1910.142.³

The proposed amendment typically applies to space in a family shelter unit that houses up to 15 individuals (TWH workers and other family members who are non-workers who may be (or be caring for) children and elderly occupants), and would not apply to common TWH dormitories or bunkhouses where a sleeping area cannot open directly into a kitchen area. The current rule bases square footage on all occupants in a family shelter unit. The proposed rule would count only workers in calculating required minimum square footage, and requires 50 square foot per worker if sleeping and kitchen areas are separated, but 100 square feet per worker if sleeping and kitchen area are not separate (such as open-concept rooms).

The current rule requires a maximum of 770 square feet for family shelter units regardless of unit configuration. The proposed rule may require up to 1,500 square feet if all individuals in the family shelter unit are workers, but only if sleeping and kitchen space is not separated. Options for complying with the proposed amendment include:

³ This proposed amendment may be considered exempt from analysis under RCW 34.05.310(4) because it would adopt a requirement from a federal rule, 29 CFR 1910, without material change. However, the department has elected to analyze the cost of compliance with the proposed rule in this SBEIS.

- i. Providing a separator between the kitchen and sleeping areas. A ceiling-mounted fire-retardant screen is available for about \$25, or installing a 8x12 foot partition wall may cost about \$230 including lumber, drywall, supplies and labor.
- ii. Increasing the total square footage of family shelter units from the current maximum of 770 square feet up to a maximum 1,500 square feet, or as much as required to meet the projected number of workers the unit would house, at an estimated cost of \$35 per square foot.
- iii. Moving some workers to other TWH common facilities to match existing family shelter unit square footage to the number of workers projected to be housed in each unit. However, this may cause the operator to need to provide additional sleeping space or other facilities.

Costs of equipment, engineering services, or permit costs may apply if the TWH operator chooses to increase square footage to comply with the proposed amendments. This analysis assumes that the best method to comply would be to erect a partition wall to separate the sleeping area from kitchen area in family shelter units. This would reduce the required sleeping area to 50 square feet per worker.

2. WAC 296-307-16127 TWH management plan (New).

The proposed rule provides greater detail on what must be included in a TWH management plan than the standard in current WAC 246-358-045(2), and requires that the operator provide the plan to occupants in their native language. . Estimated costs to provide a 2,000 word, four-page plan include 16 cents per word for professional translation of the plan (\$320), and 10 cents per page to provide the plan to up to 250 occupants (\$100). There would be no expected costs of equipment, labor, or supplies.

3. WAC 296-307-16130 Water supply.

The current rules require hot and cold water be supplied for drinking, cooking, bathing and laundry. The proposed rule adds that hot water must also be supplied to hand wash sinks. Hand washing with soap and warm water is the most effective method for killing germs and reducing the spread of germs, particularly after a person uses the toilet or handles raw foods in food preparation areas. Some TWH facilities already supply hot water to hand wash sinks, and in these cases the amendment would not apply. TWH facilities that do not supply hot water to hand wash sinks may comply with the proposed rule by:

- i. Installing individual “instant” hot water systems at each sink, at an estimated cost of up to \$200 for a 1.5 gallon/minute electric unit, including \$160 for the unit, and up to \$40 for water connections that may be installed without special tools or training. A 110/120 volt power outlet would be needed for each unit, or
- ii. Installing a small hot water tank and service lines to serve multiple sinks. Estimated costs include \$248 for a 6-gallon capacity tank, copper pipe and connections at about \$15 per sink, and \$60 to \$75 per hour for labor. Each unit requires 120 volt power, or
- iii. Installing additional connections to sinks from existing hot water storage. Estimated costs include copper piping and connections at \$5 per lineal foot, and \$60 to \$75 per hour for labor.

The smallest common facilities may have two or three hand wash sinks total (1 sink for every six occupants), while the largest may have about 35 hand wash sinks. For most TWH operations, this analysis assumes the least expensive method of complying with the proposed rule may be to install a 6 gallon hot water tank for every six hand wash sinks, and provide short water supply lines to the sink(s).

The proposed rule would require setting hot water tank temperature between 110 and 120 degrees Fahrenheit. Hot water at 120 degrees F. is considered low enough to reduce the risk of second- or third-degree scalding burns, especially by young children staying in family shelter units. The Centers for Disease Control and Prevention and Consumer Product Safety Commission recommend water heaters be set to a maximum of 120 degrees F.⁴ This analysis assumes that many operators may currently maintain hot water at higher than 120 degrees. Lowering water temperature to 120 degrees may result in modest water heating cost savings.

Compliance with this proposed rule should not require costs for professional fees or increase in administrative costs.

4. WAC 296-307-16145 Building requirements and maintenance.

⁴ <http://www.cdc.gov/safechild/Burns/>; www.epsc.gov/PageFiles/121522/5098.pdf

The proposed rule amendments include the following changes that require TWH operators to:

- Prevent condensation and mold in dwelling units to the degree that it does not cause a health or safety risk to occupants;
- Provide locking door handles/knobs on entrance doors, bedroom and bathroom doors.
- Provide doors to toilet or shower rooms, and locking mechanisms on toilet and shower stalls that have doors;
- Not use lead-based paint

Excess condensation can build up inside ceilings and walls when there is either insufficient insulation or insufficient ventilation in a structure. This condensation can contribute to water damage to occupants' food, clothing and other belongings, or may increase the risk of mold growth. Mold on surfaces is an indicator of moisture buildup from exterior leaks, from plumbing leaks, or from other moisture sources that does not dry adequately. Mold can contribute to breathing issues for individuals with asthma or allergies. Where excess condensation or mold exist, the operator will need to take steps necessary to reduce the condensation or mold. Depending on the TWH facility, these steps could include improving the effectiveness of existing ventilation or heating, increased ventilation, additional insulation or ceiling batting, fixing water leaks, repairing walls or flooring, or other actions. Condensation or mold often has a site-specific cause requiring a site-specific solution. Due to wide variety of conditions creating condensation or mold, and variety of possible remediation methods, it is not possible to estimate the typical costs of reducing condensation or mold.

Providing exterior, bedroom and bathroom door handles/knobs that lock from the inside, and locking mechanisms (as simple as a hook and eye) for toilet and shower stalls is intended to increase occupant security and privacy in their sleeping quarters or while they use toilet or shower facilities. Many TWH operators may already provide locking exterior doors on dwelling units. Bedroom and interior bathroom door handles are available that lock from the inside but can be opened from the outside in an emergency by inserting a small rod or screwdriver into the door knob to unlock it. Lockable exterior door handles are available for about \$8 each, and interior doors that lock from one side are available for about \$9 each. The number of locking door handles/knobs needed by a TWH operator to comply with the rule may vary widely. Many family shelter units may need one exterior locking door handle, and one or two interior locking door knobs for toilet and sleeping rooms, or only one door handle if the sleeping area is not a separate room. Common TWH facilities may need more than one exterior door, and one or more bedroom or toilet facilities, or may have sleeping facilities (such as bunkhouses) with no internal doors. Common toilet facilities that have non-locking stall doors may have a hook-eye latch mechanism installed to comply with the proposed rule, for about \$1 per stall door.

Exposure to lead is a known health hazard, especially to brain development in young children. The Centers for Disease Control and Prevention say that there is no safe level of lead exposure for children.⁵ Lead-based building paint is not available for purchase, so there should be no additional cost for TWH operators to comply with this standard.

Compliance with the proposed rule should not result in costs of professional services or an increase in administrative costs.

5. WAC 296-307-16149 (New) Carbon monoxide alarms, smoke detectors and fire extinguishers.

The proposed rules requires operators to have carbon monoxide alarms and smoke detectors in TWH facilities, as well as a working fire extinguisher in each family shelter and in common sleeping or kitchen facilities. Fuel burning heating and cooking devices can emit carbon monoxide (CO, a colorless, odorless gas) even if no smoke is present. These devices also present possible fire dangers. CO and smoke detectors can help save lives by detecting CO or smoke before it can reach unsafe or deadly levels, and alerting occupants to evacuate or ventilate the room. The number of CO/smoke detectors monitors needed would depend on numbers of family dwelling units and common facilities at each TWH facility. Combination battery powered CO/smoke monitors cost about \$40 each and \$2 per year for batteries, and can be installed without special tools.

During a fire, a working fire extinguisher is important to help occupants clear a safe path to a fire exit; but it should not be used to fight the fire. Fire extinguishers are available in single-use units that must be replaced after use, or in

⁵ http://www.cdc.gov/nceh/lead/ACCLPP/blood_lead_levels.htm

reusable units that must be checked by a qualified inspector and recharged regularly. Single-use fire extinguishers would cost about \$40 per unit. The number needed would depend on the number and distribution of family shelter units and common facilities at a TWH site. The smallest TWH facilities may need two combination CO/smoke detectors, and two single-use fire extinguishers. The largest facilities may need 15 to 20 CO/smoke detectors and 15 to 20 single-use fire extinguishers, depending on the mix and configuration of family shelter units and common facilities.

Compliance with the proposed rule should not result in costs of labor or an increase in administrative costs, and would require professional services only if the TWH operator chose to install permanent fire extinguishers that need annual inspection and recharging.

6. WAC 296-307-16155 Handwashing and bathing facilities.

The proposed rule would also require installation of privacy partitions between showers “stalls” or curtain partitions in common shower facilities. Providing shower curtains or stalls helps provide privacy for TWH occupants. Simple ceiling-mounted shower rods and curtains would cost an estimated \$15 per shower stall. Common TWH facilities must have one shower for every ten occupants. The smallest TWH common facilities may need one shower curtain to separate two showers at a cost of \$15 while the largest may need up to 25 showers curtains costing up to \$375 depending on the ratio of common facilities to family shelter units with showers.

Compliance with the proposed rule should not result in costs of equipment, professional services or an increase in administrative costs.

7. WAC 296-307-16160 Toilet facilities.

Proposed amendments would require a minimum of two toilets in common facilities, as required by 29 CFR 1910.142. The rule would not impact family shelter units. While larger TWH sites would likely be in compliance, some smaller TWH facilities with fewer than 15 occupants in common facilities may need to add toilet capacity to comply with the proposed rule. TWH operators may meet the two-toilet requirement by providing a chemical toilet (sani-can) until permanent toilets are added, at a cost of \$167 per month, including and interior sink and weekly maintenance, during the months the TWH is occupied.

The proposed new rule would require privacy partitions or walls between toilets in common facilities, and that partitions or walls have a smooth, cleanable and nonabsorbent surface. Installing wood frame toilet stalls with water-resistant painted plywood or “OSB” board walls and doors would be the least expensive method to comply with the rule. Estimated cost of compliance with proposed amendments would be \$65 per stall for lumber, paint, hardware and supplies, and up to \$60 per hour for labor if outside labor is used. The smallest TWH common facilities may need partitions for two stalls, while the largest facilities may need 10 to 18 stalls depending on the ratio of common facilities to family shelter unit with toilets.

Compliance with the proposed rule should not result in costs of equipment, professional services or an increase in administrative costs.

8. WAC 296-307-16165 Cooking and food-handling facilities.

The proposed amendments require TWH operators to have a minimum one stove burner or electric hotplate for every 2.5 workers (or one four-burner stove for every 10 workers) in common TWH facilities, consistent with federal 29 CFR 1910.⁶ This is nearly double the current requirement in TWH rules. The requirement for one stove (with four burners) in family shelter units is unchanged. Some operators may need to add electric hotplates in common food handling facilities to comply with the rule, at a cost of \$18 for single burner units or \$30 for double burner.

Compliance with the proposed rule should not result in costs of supplies, professional services or an increase in administrative costs.

⁶ This proposed amendment could be considered exempt from analysis under RCW 34.05.310(4) because it would adopt a requirement from a federal rule, 29 CFR 1910, without material change. However, the department has elected to analyze the cost of compliance with the proposed rule in this SBEIS.

9. WAC 296-307-16170 Cots, beds, bedding and personal storage.

The proposed rules set new requirements for bunk beds, requiring that the bottom bunk be at least 12 inches above the floor. Top bunks must also have rails to prevent individuals from falling. Cost of compliance would be about \$1 for per bunk unit for height extenders, and about \$5.25 per bunk unit to add two 2x4 8-foot rails on top bunks. The number of bunks per TWH facility cannot be estimated. Compliance with the proposed rule should not result in costs of equipment, professional services or an increase in administrative costs.

The rules also require the operator to provide one lockable personal locker or space for each farm worker in the licensed TWH. This would not apply to non-worker occupants. The worker must provide his/her own lock. Foot lockers are available for about \$22 each. The smallest TWH sites may need fewer than 10 lockers (\$220 or less), while the largest sites may need up to 250 lockers (costing up to \$5,500). Compliance with the proposed rule would not result in costs of equipment, labor, professional services or an increase in administrative costs.

10. WAC 296-307-16175 First aid and safety.

The proposed amendments require TWH operators to provide a means of communication for occupants to contact emergency services or the operator's designated first aid-certified staff person. Some TWH facilities may not have landline phones or cell phone reception, especially in more remote areas of Eastern Washington. Operators may comply with the rule by providing a walkie-talkie or intercom device centrally located at the TWH site so that occupants may contact a designated staff person who can provide first aid or contact emergency services, at a cost of about \$30 for a set of two "track phone" type battery operated two-way radios.

Compliance with the proposed rule should not result in costs of supplies, labor, professional services or an increase in administrative costs

Analyze whether compliance with the proposed rule will cause businesses to lose sales or revenue.

Compliance with the proposed rules is not likely to cause affected businesses to lose sales or revenue. Compliance could cause affected TWH operators to temporarily shift payment from other expenses to the cost of rule compliance. Generally, costs to comply would be a one-time expense. Compliance may improve the quality and livability of some licensed TWH facilities, which may allow operators of those facilities to attract more highly skilled workers, which could lead to higher productivity for the farm operation.

Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

Available agricultural employer revenue and labor statistics do not distinguish between employers who do or do not provide temporary migrant worker housing. The proposed rules are anticipated to impose more than minor costs on agricultural employers with licenses to provide TWH compared to other agricultural employers. This SBEIS analyzes these costs.

Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

This analysis assumes that the proposed rules may have a disproportionate impact on TWH licensees who employ 50 or fewer employees, compared to 10 percent of largest business that are licensed TWH operator businesses.

Describe how small businesses were involved in the development of the proposed rule.

DOH held four stakeholder meetings in 2012 and four rule development meetings in 2014 to evaluate the current TWH rules, and they were attended by small TWH operators, organizations representing agricultural employers and advocates representing farm workers. Stakeholders also had opportunities to provide written input and suggestions on the current rules during the 2012 rule evaluation and on a working draft of the proposed rules in May 2014. Input from small TWH operators and other stakeholders was considered at each stage of rule development and many of their suggestions were incorporated into the proposed rules where feasible. L&I held two stakeholder meetings in October 2014 to present the proposed draft that was written during multiple joint meetings with DOH throughout 2014. L&I will also be holding two joint public hearings with DOH in January 2015 for stakeholders to testify with their input on the proposed rules.

Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

The proposed rules are not likely to cause workers to lose jobs. Some very short-term jobs may be created if TWH operators hire workers to install fixtures necessary to comply with the proposed rules.

Identify efforts to reduce (mitigate) costs imposed by the rule on small businesses, where legal and feasible in meeting the stated objectives of the underlying statutes. The analysis must consider all of the following:

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
 - **WAC 296-307-16115.** Proposed minimum square footage requirements for family shelter unit are modified to count only temporary workers, consistent with 29 CFR 1910, rather than counting all occupants in the unit under the current rule. As a result, operators may use smaller family shelter units than currently allowed if the unit houses fewer than eight workers, even if the unit houses additional occupants who are not workers (children or adults who do not work), if the sleeping area in the unit is separate from the kitchen area.
 - **WAC 296-307-16160.** Small TWH operators who must increase the number of toilets to meet the proposed two toilet minimum (in 29 CFR 1910.142(5)) may use chemical toilets until permanent facilities can be built. Larger TWH facilities will likely meet the minimum requirement.

- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;

The proposed rule does not decrease recordkeeping or reporting requirements applicable to all TWH operators.

- (c) Delaying compliance timetables;

The department plans to delay until January 1, 2016 compliance with proposed rules that require TWH operators to install additional fixtures, appliances, partitions, or equipment, or to translate materials required to be distributed to TWH occupants.