

**Temporary Worker Housing – Emergency Rule – Filing January 8, 2021**  
**Comments Received – December 18<sup>th</sup> thru 28<sup>th</sup>, 2020**

Comments	
<p>I am an organic apple and cherry grower. I employ up to 76 / H2A laborers from Mexico using 5 licensed houses. We use bunk beds because they are essential in the housing of our workforce. We demonstrated bunk bed safety and the compliance of other rules and procedures in September of 2020 by passing an on sight audit and inspection by L &amp; I. We had NO violations of rules and procedures and NONE of our workers ever became sick with COVID-19 or any other cold or flu in 2020. This was because:</p> <ul style="list-style-type: none"><li>• Each labor house acted as group housing and became a worker group/crew in our orchards. They did not mingle with other house workers either at work or otherwise.</li><li>• We provided our workers with masks, gloves, and disinfectant.</li><li>• We installed hand washing stations at each worksite and spaced them in accordance with the rules</li><li>• We did not permit visitors to enter our housing or work site. No matter who the visitor was.</li><li>• We employed a full time cleaning staff to disinfect and clean each house each morning after the men went to work.</li><li>• Grocery shopping in town was limited to once/week at 5am in the morning.</li><li>• All transportation was affected in clean/sanitary/partitioned vans.</li><li>• Workers had temperatures taken each morning and health questions asked of them by our permanent worker staff before they entered the van.</li><li>• We constructed, for each house, a sun protected porch suitable for outside meal preparation (BBQ) and consumption.</li></ul> <p>This February we will be employing this year's (2021) H2A laborers. We will be employing all of the above procedures once again to keep our workers safe and productive. These rules and our procedures work. We will keep our workers healthy. It is essential that:</p> <ul style="list-style-type: none"><li>• We are able to use bunk beds. They work and they are safe. We can effectively operate under the 15 person group shelter rule. We did that in 2020. It works. Please don't mess with that rule.</li><li>• We must be allowed to restrict ALL visitors, no matter who they are. Visitors bring viruses.</li><li>• We do have an ambulance in Royal City within 20 minutes of us, but for many farmers this is just not a practical rule. This rule does not seem reasonable to me in rural areas like farm country. If we ever needed to transport one of our workers to get medical care, and if the Royal City ambulance was not available, we would just take our worker to get medical care in one of our transport vans. No need to wait around.</li><li>• We need to be able to test our workers for COVID-19 upon their arrival to our farm.</li><li>• We need an "essential industry" priority to receive the COVID-19 vaccines for each of our workers, including the second shot booster. This MUST have the highest priority from the State of Washington.</li></ul> <p>Get us vaccinated and these rules can be mitigated to some level of normalcy.</p>	
Please find the following comments regarding the temporary worker housing emergency rules and subsequent draft update dated December 18, 2020.	

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<ol style="list-style-type: none"> <li>1. Please consider eliminating the bunk bed ban altogether. There is no scientific reason to require a group shelter if employees sleep horizontally 6 feet apart or diagonally (in bunk beds) 6 feet apart.</li> <li>2. Please consider a priority for farmworkers to receive the Covid-19 vaccination. Once vaccinated, please provide provisions for the reduction or elimination of the WAC 296-307-16102/WAC 246-358-002 requirements.</li> </ol> <p>We are committed to ensuring the safety of our essential workers, please take these comments into consideration. It is of utmost importance for us to keep our workers safe. Many of the individuals who work in our harvest have been with us for years, returning year after year, and becoming not only friends but part of our extended family.</p>	
<p>I submitted a Declaration 30 June 2020 (attached) with objections and suggestions in the court case concerning the prior Joint Emergency Temporary Housing Rule. I recommended increased fresh air ventilation and air disinfection indoors with free-standing plug-in HEPA filter devices since very low ceilings and upper bunks exclude use of low-dose upper-room germicidal UVC 254 nm. I pointed out that floor-to-ceiling plastic sheets would impede air flow. Since that time, documented evidence of Covid-19 transmission indoors at a 20-ft distance in 5 minutes (K-S Kwon, J Korean Med Sci. 2020 Nov 30;35(46):e415) makes fresh air ventilation and air disinfection even more imperative than the 6-ft distancing requirement.</p> <p>The Departments of L&amp;I and Health and Judge John C Skinder dismissed my concerns and suggestions. In a Proclamation 28 May 2020, Governor Jay Inslee had asserted the primacy of Washington's crops of "hops, cherries, apples, and pears" and other products and declared those working on them "essential workers". L&amp;I dutifully created a new rule, WAC 296-307-16102, exempting such farm worker housing conditions from those Washington requires for human habitation where mechanical ventilation exists (WAC 296-307-16145), e.g., meeting ASHRAE guidelines of 5 cu ft per minute per person of outside air entrained for indoor barracks and dormitories. L&amp;I and DOH chose to rely instead on the opinions expressed by Bill and Melinda Gates ("All Lives Have Equal Value") Foundation full-time employed senior official Mr Vincent Seaman's, recounted retrospectively in a L&amp;I memo-to-file and in two Seaman Declarations. In his 27 April 2020 Declaration, Mr Seaman derogated the value of masks to prevent viral transmission and favored experimental "cohorting". In a second Declaration 10 July 2020, Mr Seaman again dismissed masks, as well as my recommendations and credentials. I note Mr Seaman presents formal training in an accredited institution of higher learning solely for chemistry, biology, pharmacy (bachelor degrees), and toxicology and pharmacology (masters and doctoral degrees).</p> <p>Governor Inslee, recently reelected by a large margin, has far more situational experience in this specific matter than I. I therefore readjust my expectations. Since these "essential workers" don't qualify for ordinary human standards but are terrestrial and do require oxygen and nutrition, for example, I will henceforth refer to them as "Living things, not otherwise specified", or LTs. Rather than the vague, conditional, qualitative, and sometimes incomprehensible measures outlined in the Rule and proposed revisions, I propose instead that LTs be provided the same standards as those required for experimental laboratory animals, such as rats.</p>	

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In its section on "Terrestrial Animals", under which I propose the LTs would qualify, in "Ventilation and Air Quality" in Chapter 3, Environment, Housing and Management, "Guide for the Care and Use of Laboratory Animals, 8<sup>th</sup> edition" (National Research Council (US) Committee for the Update of the Guide for the Care and Use of Laboratory Animals, Washington (DC): National Academies Press (US); 2011), the text states, "*Provision of 10 to 15 fresh air changes per hour in animal housing rooms is an acceptable guideline to maintain macroenvironmental air quality by constant volume systems and may also ensure microenvironmental air quality.*" With respect to recycling indoor air, the text cautions, "*The use of recycled air to ventilate animal rooms may save energy but entails risks...The exhaust air to be recycled should be filtered, at minimum, with 85–95% ASHRAE efficient filters to remove airborne particles before it is recycled...*" These filters are at least MERV 13. The proposed Rule text requests them but settles for whatever if MERV 13 "is not feasible", without further defining "feasible".

I anticipate L&I and DOH and perhaps others will object that Federal standards for housing laboratory rats are too stringent to apply to the LTs, who are not intended to serve the science of improving human or animal health and are instead intended merely to play their role for Governor Inslee's proclaimed valued produce. Having failed in my prior strenuous arguments requiring that LTs be considered human, I can now offer these justifications for providing them at least the ventilation standards required for laboratory rats.

Mr [REDACTED] Declarations' assertions about Covid-19 that masks are not helpful, that fomite transmission is important, and that airborne aerosol transmission is dubious have all been repudiated by evidence. He repeatedly describes his views with the phrase, "I believe" rather than "Evidence shows." With respect to the success of "cohorting" uninfected persons to prevent infection when at least one member of the group may leave to be with others, there is no evidence of its success. These facts all point to current practices as experimental and the LTs therefore similar to non-consenting laboratory experimental animals. Hence, they should be granted at least the level of ventilation mandated for their terrestrial animal counterparts such as laboratory rats.

Currently the Rule text and proposed text include non-scientific vague aspirations such as:

(1)(D)(i)(D)(I) " Make sure all HVAC systems are fully functional". Instead, one measures and records their performance within % of specifications after predefining a tolerance for "fully functional".

And (D)(III) "Maximize the HVAC system's outdoor air intake". Instead, one defines how to use % outside air intake and CFM output and the size of the dormitory space to determine if the Federal laboratory rat standards are or can be met for the LTs and, if not, one adds local disinfection, such as portable in-room HEPA units appropriately sized. Mr [REDACTED] criticism misconstrued these as HEPA filters inserted in the ductwork.

And (D)(V) "Filters must be clean and in good repair". Instead, one measures pressure on both

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<p>sides of the filter and when flow is sufficiently impaired, the filter is replaced. For a typical HEPA filter (MERV 17), it is 2-4 inches wg pressure drop. MERV-17 filters will have their own recommendations. Systems must remain turned on in order to be filtering. MERV-13 filters do not filter out coronavirus efficiently; that is why MERV-17 (HEPA) filters are recommended. Filters must be properly seated without flow-by around the filter.</p> <p>And (E)(V) " Operate exhaust fans in restrooms continuously at maximum capacity." Instead, one also requires restroom fans be vented outside, assured by demonstrating negative pressure at the operating fan with the door shut, such as by disappearance of cigar smoke indoors and its rapid appearance outside.</p> <p>Among the many deplorable innovations in the proposed care of the LTs is the addition of medical assistants doing the "respiratory exam" by telemedicine. It would be simple instead to define measurements that require transport of the LT to a facility capable of supplying oxygen from 1 L nasal to 100% high-flow at 60 LPM as well as chest radiography and an ECG if any of the other caregivers mentioned found a concerning measurement.</p> <p>In summary, the Rule and its proposed modifications are antithetical to the quantitative foundations of even elemental public health practice. Instead, I have proposed a lower standard, for ventilation mandated for laboratory rats, for LTs that Governor Inslee's L&amp;I and DOH have determined not to meet the level of required ventilation of dormitory spaces with humans inside. If L&amp;I and DOH agree to meet such standards, the LTs will certainly have a healthier space with lower Covid-19 risk than the Rule or its proposed revisions would provide.</p>	
<p><b>Subsection (1)(d)(i)(A):</b> The efficacy of six feet of distance is becoming increasingly questionable as evidence mounts of the danger of aerosol transmission. These rules still allow for too many occupants in the space. The focus should be on getting clean air into the space or filtering the air that is there. To that end, the fewer people who are in a space, the more likely it is that sufficient clean air will be supplied. See other references to the ASHRAE standard. Underlying all of this, of course, is the basic problem that when people are commodified, as farmworkers are, and when they are valued less than the fruit they pick, then we make policy choices that endanger their health in pursuit of agricultural harvest.</p>	
<p><b>Subsection (1)(d)(i)(D):</b> Our overall comment is that this is a vast improvement over “take steps to improve ventilation,” mostly because the steps are outlined and not left to individual housing providers (who are not experts in infectious disease or ventilation) to figure out. Two overarching concerns: 1) most of the standards are not objective, and 2) relatedly, we remain extremely concerned that these requirements will not be enforced, and we stress the need for more enforcement resources and middle-of-season inspections to make any requirements meaningful. Any housing using mechanical ventilation should be required to meet ASHRAE standards for air exchange. (this would be ASHRAE standard 62.1 You could easily reference the “ventilation rate procedure” for determining if there is enough clean air- probably using the air intake standard for dormitories). WAC 246-358-075 already recognizes ASHRAE as the meaningful standard. I had an edifying conversation with Allen Spaulding at DOH (he does construction review). He explained the practical effect of WAC 246-358-075(11), which allows housing to be built with either windows</p>	

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<p>that open OR a mechanical ventilation standard. He said that essentially no housing is approved by relying on a mechanical ventilation system – they almost always just say that they have enough windows that open. They later install mechanical ventilation systems (almost all of them have AC—it’s just too hot in the summer not to), but not as part of the official housing approval. That’s a major flaw in the existing permanent regulations, and it’s pretty astounding. Even if the agencies do not adopt ASHRAE standards in this version of the rules, the agencies should be sure that they are prepared to enforce these requirements as to ANY housing that actually has mechanical ventilation, regardless of the original way they were approved for construction.</p>	
<p><b>Subsection (1)(d)(i)(D)(III):</b> This was the dangerous situation this summer – DOH told everyone to keep windows closed and outside air from coming in to protect from wildfire smoke, which was contrary to the steps that are needed for avoiding contracting COVID. The rules should tell housing operators what they have to do about COVID in times of wildfire smoke. We suggest a requirement for filtration – ceiling HEPA filter units would be best; portable HEPA filters or other high-value filters would be much better than nothing.</p>	
<p><b>Subsection (1)(d)(i)(D)(VI):</b> Checks should be more frequent. Most H-2A contracts are now from January to November, but peak occupancy can come much later in the spring or beginning of the summer. Quarterly checks should be mandated, at a minimum. I am not an HVAC expert, but it seems that quarterly checks may be insufficient in current conditions – wouldn’t it be conceivable that filters, for example, would be rendered ineffective in a very short time during times of wildfire smoke?</p>	
<p><b>Subsection (1)(d)(i)(E)(III):</b> We are glad to see the recognition of this issue here. More specificity is needed. Pesticides can drift a quarter mile or more. Housing operators should be required to notify housing residents if pesticides are being applied, and they need to know how many feet away a pesticide application must be if no warning is required to be issued to workers. The rule should also say for how long the ventilation should be reduced; in practice, pesticide applicators will tell folks to shut the windows and then never return to tell them to open them again.</p>	
<p><b>Subsection (1)(d)(i)(F) Note:</b> Ceiling units are even more effective, as they can’t be moved, knocked over, etc. Portable HEPA filters, when they have adequate capacity for the space, can make a big difference, though. As mentioned above, the agencies should consider requiring HEPA filtration, especially if the housing is in an area where pesticides are frequently applied or where wildfires smoke is likely.</p>	
<p><b>Subsection (1)(d)(iii):</b> We saw photos of the barriers used in many housing units last summer. Most of them were on the counters, next to the sinks only, but would not have separated the people standing in front of the counters. These do not appear to be meaningful protections against droplet transmission. It is unclear to us whether even larger barriers would help, though, given the risk of aerosol transmission, unless each space had a separate filter or exhaust fan.</p>	
<p><b>Subsection (1)(e):</b> It is impossible for us to analyze whether this strategy was effective without data on the outbreaks this summer in temporary worker housing. What kind of housing did the infected people live in (both in terms of physical configuration and cohorting)? At a minimum, we</p>	

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continue to strenuously advocate for testing of workers before they are involuntarily placed in cohorts. Relatedly, DOH published a guidance document last spring that said that social distancing requirements were “relaxed” for those in cohorts – that guidance should be rescinded.	
<b>Subsection (1)(f):</b> We understand that the evidence of fomite transmission is very minimal, of not nonexistent. Rather than focusing on disinfection of surfaces, the rules should focus on giving each person adequate clean air to breathe.	
<b>Subsection (2)(b)(vi):</b> Add language to read: The operator must provide food and water <u>three times daily or provide means to refrigerate and heat food</u> and monitor for safety occupants in isolation.	
<p>I would just like to add to the list of concerned H2A program users.</p> <p>We ask that you please reconsider how the proposed changes will affect the Washington State Agriculture Industry and the very people it is trying to protect.</p> <ol style="list-style-type: none"> <li>1. We ask that when you consider the new emergency rules you take in account the responsible employers, those of us that follow the rules and are going above and beyond what is required by law to protect our workforce. Changes that are helpful and well thought out are always welcome.</li> <li>2. We ask that employers be allowed to continue to use Bunk beds. Allow us to protect our employees in the following manner:</li> <li>3. We can better protect our employees by not allowing visitors free access to our facilities. Some Employees have also voiced their concern about this unregulated access.</li> <li>4. That the group shelters be increased to 50. A group of 50 makes sense when it comes to traveling and a working crew. For crews of 15 there is an increase of 66% more crew leaders that live off campus, that exponentially increases the exposure. Difficult to find 66% more crew leaders that are trained and capable of not only supervising but properly managing a crew.</li> <li>5. Responsible employers always follow the rules, however, some are out of the employers control, such as an ambulance in 20 min. The employers cannot control the time it takes an ambulance to reach their destination, for this reason, this requirement must be eliminated.</li> <li>6. Once workers are vaccinated the occupancy rule should be null and void.</li> </ol> <p>As a 2020 H2A program user with 240+ workers we were very successful, we had two employees that were quarantined during our 10 month contract and Bunk beds had nothing to do with it. We ask that you please look at the facts and make the best decision for our workers, that any changes made are not permanently binding but relevant and helpful to current events and when no longer necessary able to revert as quickly as imposed.</p>	
<p>Thank you for the opportunity to submit comments [REDACTED] [REDACTED]</p> <p>[REDACTED]. We have serious concerns over the construction and application of these rules. We do not believe new emergency temporary worker housing rules are justified. Should you continue with the rules, we have detailed</p>	

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<p>some of our concerns regarding revisions to the emergency housing rules and proposed changes are as follows:</p> <p><b>(1) Note</b>  This section should be codified in emergency temporary rule, not unenforceable guidance. The biggest threat to the success of cohort groups is the contamination of the site from outside and uncontrolled environments. A threshold should be established to qualify that the purpose of community worker visits should be greater than the danger their physical presence poses to the workers. In the absence of any qualifying reasons, the “should” outlined in the revised emergency rules should be changed to “shall” in order to provide tangible safety measures during the visit.</p> <p><b><u>Subsection (1)(d)(ii)(D)(IV)</u></b>  Please advise as to which particulate respirator could or should be used.</p> <p><b><u>Subsection (1)(d)(ii)(D)(VI)</u></b>  Remove “(usually quarterly or annually)” as it is ambiguous to the reader. The guidance for “manufacturer recommendations” is sufficient.</p> <p><b><u>Subsection (2)(b)(i)(H)</u></b>  We support the addition of medical assistant-certified (MA-C) and medical assistant-registered (MA-R) credentialed to the list of approved health care professionals.  Thank you in advance for your consideration of our objection to changing the temporary worker housing rules. We hope you will thoughtfully reconsider, but have included these suggested changes to the revised emergency temporary housing rule to avert as much harm as possible to the industry as they are implemented.</p>	
<p>I am a fruit grower in Quincy Wa. I have housing units that hold less then 15 people and we were able to work with the bunk bed program for 2020. It is critical that we be able to continue this same program or I believe the crops will not get harvested nor grown . We had approximately 260 workers housed in 24 units and did not have any COVID 19 cases in or facility. The 2020 program worked and there is no reason to make farming any harder then it already is in these times. Agriculture cannot find people to work our fields from local sources. If you eliminate unemployment ,I still think we would not be able to find the people locally to harvest these crops. We export a lot of fruit and vegetables thru Seattle and without workers that is not going to happen and you will see shortages on your grocery shelves. I repeat, do not make the rules any harder to comply then those of 2020. We will get thru this COVID 19 soon and let’s hope we will be a more supportive community.</p>	
<p>I would like to submit comments on <b>WAC 296-307-16102</b>.  These rules should never be made permanent. They need to be repealed, especially after the vaccinations are out for the general populace. Keeping humans confined is not healthy or humane. What if the occupants want to go to church? Does this break the rules for group shelter?</p> <p>Why are bunkbeds still disallowed? What science is this based on? We have been living with the virus now for months. If a person is living in a group setting, does it really make a difference whether or not a person is sleeping on a bunk bed? Should not a plan be made based on each company’s individual situation?</p>	

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<p>What science supports the number 15 for group shelter? Where did that number come from? Should not a plan be made based on each company's individual situation?</p> <p>The department of L&amp;I needs to respond to people's requests for variances in a timely fashion.</p> <p>Why are you trying to manage HVAC systems from Olympia? Why don't you just write one line, "HVAC should be in good working order?" Not all systems are the same. For example, if we leave windows open, it usually causes the HVAC system to ice up during summer months when the AC is on. The open window requirement of these rules directly contradicts the HVAC requirements in some cases.</p> <p>(iii) Ensure that occupants in isolation have access to advanced life support emergency medical services within twenty minutes, and an emergency room with ventilator capability within one hour. The operator has no control over this requirement. Isn't the better approach for the government to work with local health jurisdictions and emergency response networks to ensure that they have the capabilities to conduct appropriate response within their communities?</p>	
<p>These proposed revisions are an improvement over the current emergency regulations in their effort to provide improved ventilation for workers living in temporary worker housing. Air exchange has been recognized by health authorities as fundamental to preventing the transmission of COVID-19 in enclosed spaces. The regulations could be more helpful to both housing providers and to the workers who will be living in the housing if the requirements were more clear and concrete. Require a specific minimum air flow appropriate for the square footage and the number of workers sharing that space. Without requiring that housing ventilation meet an objective standard, the remainder of the ventilation requirements fail to ensure sufficient steps will be taken.</p> <p>Last season's experience has also demonstrated the need for stronger incident reporting, inspection, testing and medical care provisions to meet the challenge presented by the pandemic. Of particular concern is the current gap in transparency and information about COVID-19 outbreaks at farmworker housing. If the reporting rules are not addressed, public health authorities and farmworkers themselves will never know how many workers got sick or even died from COVID-19.</p>	
<p><b>WAC 296-307-16102 (1)(a) Note:</b> We are unaware of any community or health workers visiting temporary worker housing failing to follow public health guidelines and therefore question the need for this note. Any note included here should be clear and appropriate to the realities of temporary worker housing. Recommended language would be that "Community workers should report to health screening facilities at the housing to the extent such facilities are readily accessible at the entrance to the housing, to provide their name and contact information and complete a screening to ensure they are symptom free. Workers should wear cloth face coverings or masks at all times and maintain social distancing in accordance with public health recommendations."</p>	
<p><b>WAC 296-307-16102 (1)(d)(ii)(D): (Ventilation)</b> The ventilation requirements have been placed</p>	



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<p>in the provision applying to sleeping quarters. Common kitchen facilities also need ventilation as workers will need to spend significant time in a closed space with other workers. Wherever workers are eating also requires ventilation, as the workers cannot wear masks or face coverings while they are eating meals. The ventilation requirements should be located in their own section, applicable to the overall housing facility.</p> <p><b>(II):</b> Remove the “where feasible” language. “Feasibility” is not a term that is defined in the regulations and is subject to the operator’s interpretation. Google informs me that feasibility is “the state or degree of being easily or conveniently done.” COVID -19 Public health measures should not be required only where they can be easily or conveniently done. Possible replacement language would be:</p> <p>“Use HVAC system filters with a Minimum Efficiency Reporting Value (MERV) rating of at least 13. If the HVAC system does not support MERV 13 filters, use the highest MERV rating filters supported by the HVAC system.”</p> <p>Add requirement that operators adjust the fan setting to run even if not currently heating or cooling. (Recommendations from ASHRAE for residential settings.)</p>	
<p><b>WAC 296-307-16102 (1)(d)(ii)(F):</b> In buildings without mechanical ventilation systems, a source of ventilation and/or filtration is needed beyond opening windows must be provided to protect against COVID 19 transmission. In the absence of other resources, portable HEPA fan/filtration systems must be required (not simply suggested) in areas in which workers sleep and eat. The particular model used must be appropriate to clean the air for the size of the occupied rooms according to manufacturer specifications. It is not realistic to rely solely on open windows for ventilation given the extreme cold temperatures experienced in Washington State. Growers have already submitted 63 separate applications to bring H-2A workers to Washington State in early 2021. It is likely that by February there will be several thousand workers already occupying TWH facilities. It is unrealistic to rely on open windows to ventilate housing in the middle of the winter. Portable HEPA fan/filtration systems provide a means to limit COVID-19 transmission in the absence of mechanical ventilation systems.</p>	
<p><b>WAC 296-307-16102 (1)(e):</b> (Group Shelters). We repeat our concern that the group shelter regulations fail to provide adequate health and safety protections for workers. Many of the TWH facilities do not lend themselves to isolating groups of workers from each other, as they have common kitchens and shower facilities. Subsection III provides that more than one group shelter may share facilities and common areas as long as they are used by only one group shelter at a time. This provision fails to protect workers from COVID transmission from prior groups using the common facilities, given what is known as to how long the COVID-19 droplets can remain in the air after exhalation.</p> <p>(e)(vi): If a member of the group shelter develops symptoms of COVID-19, the rule should explicitly require that the other members of the group shelter should be quarantined separate from the member who developed symptoms. There is no reason to continue to expose members of the shelter who may not yet have become infected to the COVID-19 positive individual.</p>	
<p><b>WAC 296-307-16102 (2): (Isolation)</b></p>	

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<p><b>(a)(ii):</b> Add a requirement that the operator notify the Department of Health TWH program as well as the local health officer upon identification of suspect COVID-19 cases. It became clear in 2020 that information provided to local health districts did not necessarily reach DOH, due in part to the lack of a centralized, uniform data collection system. IF DOH TWH has information as to suspect COVID-19 cases, the agency can take appropriate steps, including follow-up housing inspections, testing, and contact tracing.</p> <p>Now that testing has become widely available, testing should be required of all workers at the housing site.</p> <p><b>(a)(iii):</b> Provide explicitly that suspect and confirmed COVID -19 individuals must be housed separate from other occupants, including other members of their group shelter.</p>	
<p><b>WAC 296-307-16102 (3): (Management Plan)</b></p> <p>The plan must describe how the operator plans to implement the COVID prevention measures, not simply check a set of boxes. The 2020 template failed to ask how the operator was going to set up sleeping quarters, for example, including how they were going to adjust for the prohibition on bunkbeds. IF the operator plans to implement a group shelter, the operator must describe how that group shelter will work, given the floor plan of their housing facility.</p>	
<p><b>WAC 296-307-16102 (4): (Variance)</b></p> <p>The emergency regulations need to delete the provision that an operator may request a temporary variance from the requirements of this section. This provision suggests that compliance with these regulations may be optional. The language here is duplicative and unnecessary, as WAC 296-307-16120 remains in effect.</p>	
<p><b>Data Collection and Transparency:</b></p> <p>Centralized data collection concerning COVID-19 infections in TWH is important both to track contagion and also to ensure appropriate medical care is provided to ill workers. Analysis of past data regarding where and under what conditions workers became ill with COVID would inform better health measures for the future. This will not be possible if the data is not collected to begin with.</p> <p>H-2A workers are in Washington without their family members. Therefore when these individuals do become seriously ill, requiring hospitalization, there is no support network to assist them. We recently became aware of an H-2A worker who developed debilitating secondary illness after getting COVID-19. He remains in inpatient care. It was only when family members found their way to NJP that we were able to start the process of filing a workers compensation claim and searching for social service supports to assist him until he can return to his native country. He was close to becoming homeless while still requiring extensive therapy.</p>	
<p><b>Inspection and Follow up:</b></p> <p>An effective public health program for TWH cannot rely on worker complaints for follow up because workers have too much to lose from filing health and safety complaints to file them except in the most dire circumstances. Congregate housing presents a high enough public health risk that the agencies must plan for proactive housing inspections and follow up in the case of deficiencies to ensure compliance. The agencies must plan for inspection and testing to follow up on reported COVID positive housing occupants, so as to limit the outbreak and correct for</p>	

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deficiencies. Finally, the agencies must be prepared to impose enforcement action such as citations, withholding a license or civil fines when deficiencies persist.	
<u>Omission of Vaccination Plans</u> Agricultural workers have been identified as frontline essential workers who should be given high priority for COVID-19 vaccines as they become available. With this in mind, we are concerned that there is no provision in these rules for any change in housing management once residents have been vaccinated and the risk of outbreaks in the housing has been significantly reduced or eliminated. This should be addressed as soon as possible in this rule or an update to the emergency rule before it expires, rather than having each housing operator submit a variance request as their residents are vaccinated.	
<u>Rules Should Reflect Evolving Science</u> Finally, we remain concerned about proposals to make the current emergency rules permanent given that the science around these issues remains incomplete and continues to evolve. In a crisis the agencies are required to act based on the best science available at that time. However, the measures adopted under such circumstances should not be assumed to be the best, or least burdensome effective response, for any future pandemic response.	
<b>Subsection (1)(a)(ii)</b> The [REDACTED] supports the Note regarding community workers. However, [REDACTED] prefers that this note is instead put into rule to define community access workers, and to clarify the requirement and make it fully enforceable (Make it (1) (a) (iii)). The rule should require that community workers follow the COVID response plan of the facility that they are visiting. The Note in the proposed rule should also state that a “minimal”, not “minimum” number of (community) workers should be allowed....	
<b>Subsection (1)(d)(i)</b> This provision does not allow for scheduling of cooking facilities to achieve separation, which is tactic recommended by DOH inspection personnel as an alternative to additional spacing. Scheduling should be allowed.  This section also does not allow for the placement of additional barriers between toilets and sinks, which is a tactic recommended by DOH and L&I regulatory staff. Additional barriers should be allowed in this regulation as a means of achieving separation or COVID protection.	
<b>Subsection (1)(d)(ii)(D)</b> (iii) It is not practical to keep windows open in cold or very hot conditions.	
<b>Subsection (1)(d)(ii)(F)</b> Personal fans are commonly used by housing occupants. Please clarify how such personal fans are to be redirected to meet regulations. It would seem that personal fans, or window fans would be desirable in housing with minimal or no HVAC systems to promote air circulation.	
<b>Subsection (1)(e)</b>	

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The department should expand the number of occupants allowed to live in a single Group Shelter. Many housing facilities can safely accommodate more occupants in a group shelter.	
<b>Subsection (2)(b)(i)</b> The [REDACTED] that the requirement to perform twice-daily medical checks on persons in isolation be reduce to once daily. Our members have found that it is often impossible and impractical to perform twice-daily medical checks.	
<b>Subsection (2)(b)(i)(H)</b> [REDACTED] supports but requests clarification of the addition of certified and registered medical assistants as qualified to perform medical checks on COVID-19 positive employees in isolation. We are generally in support of expansion of the types of medical provider personnel who are deemed eligible to perform medical checks on COVID-19 positive employees in isolation. We are not aware of what certified and registered medical assistants are, and what role they play in rural medical facilities. We would like to understand this so that we can estimate the potential impact that the amended rule would have on our ability to access personnel for medical checks.	
<b>Vaccination:</b> The Departments should establish a threshold of percentage of occupants vaccinated, that when met, the housing operator is no longer required to comply with the emergency regulations, but instead, may comply with the regular temporary housing regulations. Due to vaccinations, the COVID-19 situation will change over the course of the season, and we need regulations to anticipate that.	
<b>Permanent Regulations:</b> If any permanent regulations are adopted concerning COVID-19 or infectious and communicable diseases in general, there should be a trigger point established at which the regulations become effective.	
From the onset of the pandemic, [REDACTED] worked hard to protect all of its workers. Long before the State of Washington enacted its initial emergency rules, [REDACTED] collaborated with an infectious disease specialist to develop a group-shelter program that put employees' health, safety and well-being first. Our program has from the start had many of the same elements as the State's current rules, including social distancing, mandatory facial coverings, reducing maximum occupancy of common areas, and using exhaust fans to create extra airflow in living quarters. From the start, we provided educational materials and available personal protective equipment (PPE) to our workers, and sanitized housing, kitchen, bathroom, and transportation facilities. Our efforts have been effective: 99.3 percent of our entire workforce tested negative for the virus in August, significantly better than the rates of the surrounding city, county, state and country. While we tragically lost employees, we have no evidence that any workplace transmission occurred. To the contrary, as many scientists are now agreeing, COVID transmission most commonly occurs in communities and families, not at the workplace. [REDACTED] appreciates the opportunity to comment on the proposed extension of WAC 296-307-16102. We have previously commented on key provisions of the rule.	

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<p><u>1. Cohorts should be "smart-sized"</u></p> <p>Based on the advice of an infectious disease specialist, [REDACTED] created groups – or cohorts – that were designed based on how workers live and work, with the goal of reducing cross contamination. The key was not cohort size, as much as it was to design a system for each camp around the size of camps, buses, and other facilities so each cohort had limited interaction with other cohorts. The result was cohorts of between 35 and 42 workers, but again, the key was not size. The key was designing a system tailored around how the workers lived, cooked, ate, travelled and worked together. Each cohort was kept separate from other cohorts, reducing the potential for transmission of the virus.</p> <p>The State eventually concluded that the cohort system was successful at limiting COVID transmission, but insisted a "one size fits all" cohort limit of 15.</p> <p>As explained in our previous comment, there appears to be no scientific basis for a 15-person limit and the negative impacts of it are significant. Smaller cohorts create a higher risk of transmission because it means there are more cohorts. The more small cohorts there are, the more likely it is that cohorts will encounter each other. Separation is jeopardized when using cooking facilities, showering, and travelling to and from the orchard. The 15-person limit, when combined with distancing and cleaning requirements, created situations where workers ended up having to shower at 2:30 in the morning, left them standing in the dark waiting for a bus and waiting for meals. The resulting stress was not good for anyone.</p> <p>Based on continuing advice from an infectious disease expert, [REDACTED] continues to believe that its tailored cohort size is a more-protective approach that is better for its operations and its workforce. We therefore propose a more flexible rule, which allows consideration of the number of workers in housing units and camps. We have all learned this last year that <u>the key is to preserve the integrity of the cohort</u>. There is no scientific basis for limiting cohorts to 15. A "one size fits all" approach is the opposite of "following the science." The integrity of the cohort can be preserved more effectively with a larger group, such as 42 or 35. The cohort should be "smart-sized," based on the size of each group of worker's actual living, working and transportation situations.</p>	
<p><b>Subsection (1)(a)(ii)</b></p> <p><u>1. Limit community spread</u></p> <p>A key improvement in the proposed rule is the "Note" on page one that requires visiting community outreach and health workers to report to designated areas, provide contact information, and be screened. [REDACTED] believes this <u>rule should apply to all visitors</u> because science has learned this last year that risk increases as people have more contact "outside their bubble." This is borne out by the fact that positive test rates were higher in the broader community than they were at [REDACTED] facilities.</p> <p>Screening visitors is common at many businesses and is essential to protecting our workers from outside transmission. Cohort integrity is promoted by doing so.</p>	
<p><u>Vaccinations</u></p> <p>[REDACTED] urges early vaccination of farm workers. The food supply depends on a healthy workforce. Ideally, foreign workers would be vaccinated in their home countries before departure. [REDACTED] also believes the limitations in the emergency rules should end for each</p>	

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camp when workers have been vaccinated.	
<p><u>Testing</u></p> <p>Guest workers should be tested before arrival. Thereafter, all members of a cohort should be tested if any one member is symptomatic. The entire cohort, however, need not be quarantined, as stated in Section I(e)(vi) of the proposed rule. Quarantining workers who are awaiting test results should be done in consultation with the local health authorities. Quarantined workers should be allowed to work with other members of their cohort.</p>	
<p><u>Notice</u></p> <p>Section 2(a)(v) of the proposed rule requires reporting of symptomatic or positive workers within 24 hours. Operators cannot know every fact at all times. 48 hours from learning of the issue is more reasonable.</p>	
<p><u>HVAC</u></p> <p>██████ has several different mechanical ventilation systems across its many camps. Just as with cohort size, the rules regarding HVAC should be tailored to the housing and worker circumstance at each camp, provided the systems are all operational and effective. A "one size fits all" approach is not workable or necessary.</p>	
<p>While ██████ has concerns that the continued extension of the WAC "emergency" rule is contrary to law, it believes the rule can and should be substantially improved based on lessons learned and improved scientific knowledge.</p>	
<p>I am writing on behalf of ████████████████████ to express our disappointment and opposition to the proposed emergency temporary worker housing rules under consideration by the Washington State Department of Health (DOH) and Department of Labor and Industries (L&amp;I) to be adopted on January 8, 2021. Thank you for accepting for the record and consideration: 1). This Cover Letter; 2). ██████ "Track Changes" Recommendations (blue text indicates wafla proposed changes); and 3).</p> <p>Comments to "Track Changes" to the DRAFT Temporary Worker Housing Third Emergency Rule (hereinafter the Rule) to be issued on January 8. The health and safety of all workers is our top priority. We are committed to ensuring every farmworker and H-2A guest worker returns safely to their families at the end of the day or the end of the season. To this end, and considering the imminent arrival of vaccines and the ever-increasing scientific understanding of COVID transmission, it is clear that blindly renewing emergency rules risks farm worker safety rather than protects it while jeopardizing the economic future of thousands of farmers across the state.</p> <p>██████</p>	
<p>The politically motivated bunk bed ban must be replaced using the best science, including testing workers on arrival and prioritizing farm workers living in congregate housing for vaccinations. It is time to follow the science to protect farm worker health while enabling the agriculture industry to recover from the worst economic crisis in modern history. Implement Science-Based Rules</p> <p>The emergency rule extending for the third time ignores science and increases farm worker exposure.</p>	

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<p>When first enacted in May 2020, the emergency rule banning bunk beds was a poor policy choice. The so-called "group shelter" provision helped some, but the limit of 15 persons had no documented evidence, scientific research, or data underpinning it. The 15-person limit was arbitrarily selected in the heat of the pandemic's arrival. CDC guidance says that grouping workers together into cohorts may reduce the spread of COVID, but nowhere in the guidance is a specific size limit outlined.</p> <p>You may not have had CDC guidance when you adopted the emergency rules last May, but you certainly have it now.</p> <p>From a health risk perspective, nine months later, the outcome has been the opposite of what was intended when the emergency rules were first enacted. Limiting housing on farms has pushed thousands of farm workers to seek shelter in unregulated housing, increasing their exposure to the virus. Farmers are trying to comply with a rule that is not feasible and must choose whether they should violate the Rule or ask workers to find housing elsewhere. Research shows case numbers are higher in the community than when workers can isolate on farms.</p> <p>As evidence, this was proven in Okanogan and Yakima county. In Okanogan, the state DOH testing of workers living on a farm found the incidence of COVID-19 infection dramatically lower than in the surrounding community. DOH and the Okanogan County Health Department confirmed that the virus outbreak in Brewster was due to community transmission, not an outbreak at a farm. In Yakima County, the evidence was even more striking. The [REDACTED] is a hotel that has been converted to housing for farmworkers. The hotel was permitted to use bunk beds. This hotel is a congregate housing facility licensed to house up to 900 workers, but management, following best science, planned to limit occupancy to 550 when the pandemic struck. Unfortunately, local farmers who were forced to reduce housing capacity at their farm by the bunk bed ban pleaded with management to accept excess workers. Management at [REDACTED] agreed, and occupancy swelled to the 900-person capacity. To accommodate this large number of workers, the hotel used bunk beds and adopted the best science in a congregate setting as follows:</p> <ul style="list-style-type: none"> <li>• Residents were required to wear masks whenever they were outside their room.</li> <li>• The hotel established a free check cashing and wire transfer service so that residents did not need to leave the hotel.</li> <li>• The hotel opened a store where workers could purchase cell phones, clothing, and sundries. Usually, workers would exit the facility to shop at area stores.</li> <li>• All meals were served in the rooms.</li> <li>• Workers were tested on arrival.</li> </ul> <p>The last item is key. By testing workers on arrival, employers were able to find a group of workers who arrived carrying the virus, quickly notified the Yakima County Health Authority, and worked cooperatively to test all residents, isolate infected individuals, and promptly stop the outbreak. In 2020, we learned what worked. And it was not a bunk bed ban.</p>	
<p>It is time to take what we learned and incorporate it into the latest proposed rule changes. In the first quarter of 2021, approximately 10,000 seasonal farmworkers will arrive from Mexico and settle in farm worker housing that has been licensed and inspected by the state Department of</p>	

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<p>Health. As was pointed out in the comments to the second emergency rule by a former CDC and WHO epidemiologist Vincent Seaman:</p> <p style="text-align: center;"><i>"there is no scientific basis or supporting documentation in the scientific literature for establishing fifteen – or any specific number for that matter – as the maximum number of workers who can safely be grouped in a work group cohort."</i></p> <p>Banning bunk beds and arbitrarily imposing 15-person group shelters was an expedient political deal brokered in the pandemic's early days when little was known about COVID transmission. This is understandable. But now it is time to step away from backroom deal-making in favor of the best science that protects workers.</p>	
<p><b>A New Approach: Test Then Vaccinate</b></p> <p>It is time to take a new approach that recognizes and applies current science and best practices learned from the past year and incorporate the promise of vaccines currently being deployed to reduce risks.</p> <p>First, those who have invested in the group shelter approach with fifteen or fewer groups have proven to work and should continue to be an option. For others, ██████ proposes that you allow the use of bunk beds if the TWH operator:</p> <ul style="list-style-type: none"> <li>• Limits the number of occupants to 80 percent of the licensed capacity; and,</li> <li>• Tests occupants upon arrival and once a month after that.</li> </ul> <p>██████ employers are working with DOH and testing providers to implement a program where operators of TWH facilities can test all occupants on arrival and regularly thereafter. Our thanks to DOH for this initiative.</p> <p>There is another consideration: Vaccination. As you know, there is nothing more important than the food supply, and it is a long chain, from the farm to the grocery store to the kitchen table. Many of us witnessed the scare earlier this year when we arrived at our grocery store to find shortages in the usually full meat trays. The first link in our food supply chain is the farmworker. It is especially crucial that farmworkers living in congregate housing facilities be provided a priority on vaccination. Farmers who follow the rules and offer high-quality housing to seasonal workers licensed and inspected by our state Department of Health, and the workers who occupy this housing, should be rewarded with a priority to vaccination.</p> <p>Any rule being considered now, when priorities for vaccination are being considered, must specify that county health authorities make vaccinations of workers living in licensed housing a priority. It is not overstating that in 2020 the pandemic challenged Washington farmers on all levels and brought economic hardship not seen since the great depression. With many farmers on life support, we must use sound science, and best practices proved to work to inform policy decisions or risk pushing many of them permanently out of business in 2021. The stakes could not be higher for our farmers and the worker who rely on them for jobs.</p>	
<p><b>Subsection (1)(a):</b> change to "Educate occupants and restrict visitors".</p> <p>The Rule allows "community workers" access to housing. The Rule does not define "community worker." Our change permits TWH operators to restrict visitors, except government inspectors and health care workers. The reason is simple. During a pandemic, best science and common sense dictate that congregate housing be closed to non-essential visitors. A candidate for office exploits the "community worker" exemption to visit TWH closed to the public on the weekend before</p>	



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<p>primary elections – potentially exposing the occupants. This visit occurred in Brewster during a large scale community outbreak that spread to TWH sites in the area. Many TWH operators reported that they could not restrict visitors, including union activists, reporters, social media commentators, politicians, and anyone else who claimed that the Emergency Rule entitled them to enter TWH under the "community worker" exemption.</p>	
<p><b>Subsection (1)(a)(ii):</b> Add another sentence stating: "The operator should restrict access to other visitors as appropriate".</p>	
<p><b>Subsection (1)(d)(ii)(C):</b> Add language stating:</p> <p>(C) Except as allowed under (e) of this subsection, the operator should limit occupancy of the facility to 80 percent of the licensed facility capacity until all occupants have been vaccinated.</p> <p>(I) When determining occupancy, any fraction shall be rounded to the next whole number. For example, a facility with a capacity of 24 occupants may house up to 20 occupants. (until occupants have been vaccinated).</p> <p>(II) Each occupants shall receive an approved COVID-19 test within 3 business days of arrival at the facility, and each month thereafter, until that occupant has been vaccinated.</p> <p>The bunk bed ban must be rescinded.</p> <p>As noted in our cover letter and our previous comments, there is no scientific basis for a bunk bed ban in congregate living situations. The group shelter option is well-grounded in science, but there is no scientific basis for the arbitrary limit of 15 persons, as we point out.</p> <p>The ban on bunk beds or the arbitrary limit of 15 occupants for cohort housing is not based in science and proved not feasible. As evidence, consider the many citations and warnings that L&amp;I handed out in the first six months of the emergency rules.</p> <p>Further evidence of the lack of feasibility is that farmers or regulators did not understand the cohort or group shelter. In September, a DOSH safety spokesperson, [REDACTED], stated in a recorded webinar for [REDACTED] members that employers could not transport 15 workers who were occupants of a 15-person group shelter in one 15-person van. This statement is contrary to the Rule and contrary to the science behind cohort housing. It demonstrates that regulators did not understand the Rule. In this case, [REDACTED] first asked [REDACTED] to correct himself and ultimately had to work with the Director of DOSH to pose a "question" that [REDACTED] could answer to correct his misstatement.</p> <p>More recently, a farmer named [REDACTED] worked with L&amp;I staff to determine how he could house 20 workers in a beautiful house he built. The house is licensed for 24 occupants, but under the arbitrary Rule, cohort housing must be limited to 15. In 2020, [REDACTED] limited occupancy to under 12 due to the bunk bed ban. He was fined \$900 by L&amp;I because he was not aware that he needed to use the group shelter concept at this housing. [REDACTED] believed that if he banned bunk beds, he did not have to apply for a group shelter. This doesn't seem right. Mr. Eilers has appealed his fine. Coincidentally, the L&amp;I consultant for [REDACTED] was [REDACTED], and it appears that he still misunderstands cohort housing. Small farmers like [REDACTED] will go out of business if they cannot house seasonal workers.</p> <p>The bottom line is that the agency must provide the best science and feasible approach to cohort housing. Wafla recommends that you keep the 15-person cohort group shelter. It works well for many TWH operators like [REDACTED], who have built 16 person houses, but it does not work for people</p>	

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<p>like [REDACTED], who own housing that hold a different number. [REDACTED] therefore, recommends that TWH operators be given the choice of either the 15-person cohort group shelter or 80 percent capacity of the current housing. TWH operators who choose the 80 percent option must test occupants upon arrival at the facility, and every month after, until all occupants are vaccinated.</p>	
<p><b>Subsection (1)(d)(ii)(D):</b> [REDACTED] supports the new HVAC suggestions.</p> <p>We have received many helpful suggestions from L&amp;I DOSH consultants concerning the best scientific recommendations to increase airflow. In most cases, adding U/V light air purifiers or MERV 13 system filters add little cost, and TWH operators are voluntarily taking this suggestion. Thank you for adding the feasibility requirement, because in some cases, it may not be feasible to add MERV 13 filters.</p> <p>There is one mistake in this section of the Rule. You require occupants to keep windows open in the dead of winter or during other inclement weather. This is not feasible. Please insert language that permits occupants to close windows during inclement weather.</p> <p>Buildings without mechanical ventilation systems should consider adding air filter systems. These tend to be small cabins built many years ago with an occupancy of 8 or fewer. [REDACTED] has sourced a highly rated combination HEPA and U/V light air filter that costs \$200 at retail, with volume purchase discounts.</p> <p>Thank you for this helpful section regarding air filters and HVAC systems.</p>	
<p><b>Subsection (1)(d)(ii)(F):</b> add “inclement weather”.</p>	
<p><b>Subsection (1)(e)(vi):</b> Add language stating: “The operator should work with the local health authority to determine if it is necessary to quarantine members of the group shelter while awaiting test results. Quarantined workers may work with other members of their group shelter, but otherwise should not leave the facility until test results are received”.</p> <p>This section requires that a TWH operator test all members of a group shelter if one member of the cohort tests positive. It is logical and is the best science that follows CDC recommendations. However, under typical cohort restrictions, uninfected or asymptomatic residents could still work if they were kept within their cohort. The [REDACTED] director attended a meeting with the state epidemiologist, [REDACTED], where he gave this advice to an employer in Brewster in August 2020. [REDACTED] was in Brewster to oversee testing of the entire workforce, most of whom stayed in employer-provided housing. During that time, state DOH worked closely with the Okanogan Health Department. The joint conclusion of DOH and Okanogan County Health Department was that the outbreak at the TWH facility was most likely caused by community spread. We thank [REDACTED] and the other DOH staff members for providing this excellent service during a time of need.</p> <p>The best science, reflected in our comment, is that TWH operators be empowered to keep workers isolated within their cohort group as much as possible and work directly with the local health authority to determine quarantine or isolation protocols.</p>	
<p><b>Subsection (2)(a)(v):</b> add language to the end: “.....as soon as practical after placement in isolation, not to exceed one business day”.</p>	

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<p>Reporting occupants with COVID 19 symptoms within 24 hours is not necessary or feasible. The Rule requires TWH operators to report occupants with COVID-19 symptoms within 24 hours after the workers had been placed in isolation. Best science would dictate that a person living in congregate housing and display systems be taken for a test and placed in isolation. Requiring a report to L&amp;I within 24 hours of this event is unduly burdensome. The report to L&amp;I should occur within one business day of the person being placed in isolation.</p>	
<p><b>Subsection (2)(b)(i): Change language to read:</b> “Ensure that a licensed health care professional visits employees when they are placed in isolation and at times deemed medically appropriate by the health care professional thereafter. The expense for medical visits can be paid by the employer, facility operator, a healthcare plan, or workers’ compensation as appropriate. At a minimum, the health care professional must assess symptoms, vital signs, and oxygen saturation via pulse oximetry, and perform a respiratory exam. For purposes of this subsection, a licensed health care professional means:”</p> <p>The twice-daily visits of a health care professional, at the employer's expense, is not feasible and likely violates workers' compensation laws, which prohibit an employer from paying for medical care once a claim has been filed.</p> <p>The Rule requires the operator of a TWH facility who places an occupant in isolation to arrange twice-daily visits by a medical professional and bill the occupant's employer for this service. This is not feasible for several reasons.</p> <p>a. [REDACTED] owns a facility in Okanogan, designated as one of the approved isolation facilities for Okanogan County. [REDACTED] planned with the Okanogan County Health Department to make daily visits to any person in isolation, which the county stated was one more visit than they would typically make. This service was offered for free by [REDACTED] to any person who was staying at the facility. It would have violated the Rule because [REDACTED] was not proposing to charge the employer, and of course, because it was only once per day.</p> <p>b. There is no scientific or medical basis for twice-daily visits by medical professionals. When the agencies announced the Rule, none of the local health jurisdictions were familiar with this requirement or able to tell employers how to comply. Any resident in Washington state diagnosed with COVID-19 is instructed to go home, isolate, and seek assistance if their conditions deteriorate.</p> <p>c. The requirement probably violates workers' compensation law. Workers' compensation laws prohibit employers from directly paying for medical assistance once a claim has been filed. This is called claims suppression. If a COVID-19 case is determined to be workplace-related, it should be the treating physician who decides what level of care or daily follow up is appropriate. This Rule would essentially create two treatment providers, the treating provider handling the workers' compensation claim, and a medical professional separately contracted by the employer to provide twice-daily visits.</p> <p>d. The [REDACTED] changes are feasible and do not violate the law. [REDACTED] recommends that a health care professional visit the occupant when the occupant is placed in isolation and after that as deemed appropriate. The [REDACTED] recommendation would allow the employer, the TWH operator, workers' compensation, or any other payment arrangement without cost to the occupant.</p>	
<p><b>Subsection (2)(b)(iii): Delete</b>  The requirement that occupants in isolation have access to advanced life support in 20 minutes,</p>	

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<p>and an emergency room with a ventilator in one hour is not feasible. If this section of the Rule were enforced, it would require that many of the TWH sites in the state be closed or prohibited from providing isolation areas. Many sites are more than 20 minutes from advanced life support. [REDACTED] owns one such facility. It is located at Ringold. The nearest town is Mesa. The closest city with an ambulance service is in Othello or Pasco, both more than 30 minutes. Likewise, TWH operators should not be required to arrange for ventilators. This section should be deleted.</p>	
<p><b>Add two new subsections (5) and (6) to read:</b></p> <p>(5) The Department of Health will require the local health authority to place people living in licensed TWH facilities in the first priority for vaccination in each county.</p> <p>There are approximately 30,000 licensed TWH beds in Washington state. These facilities meet rigorous requirements for licensing and must be inspected at least twice each year. They should be rewarded with a priority for vaccination. As DOH and L&amp;I are aware, there are many seasonal worker housing facilities that are not licensed. Providing a priority for these facilities would provide a powerful incentive for employers to license their facilities. In addition, farm workers are essential workers. Farm workers who live in congregate housing should be given a high priority for vaccination.</p> <p>(6) TWH facilities may return to 100 percent of licensed occupancy, and the group shelter provisions listed in Section (1)(e) are no longer applicable, once all occupants have received a vaccination.</p> <p>This regulation is scheduled to be in effect from January 8 until May. The government is currently projecting that farmworkers will be eligible to receive vaccinations in February. Best science dictates that TWH facilities return to pre-pandemic regulations once occupants have been vaccinated. There is no scientific basis for an emergency rule after occupants are vaccinated.</p>	
<p>In regards to the emergency rules we had to implement, we did everything in our power to follow the rules, educated all our workers and followed directions from health departments and medical facilities. I don't know where the group shelter number of 15 came about. I believe this number should be raised and I don't feel the bunk beds should be banned. I believe majority of the issues was more in the communities and not the group shelters. I also feel if we have our workers tested on arrival and even have it done monthly in the first quarter this should also be an option for growers to be able to use their housing to its full occupancy using bunk beds.</p>	
<p>I think it would be helpful to have a check-in procedure for community outreach workers. As you can imagine, all kinds of people show up at housing sites and it's a continual challenge to sort out welcomed visitors from those who might want to engage in other activities i.e. drug dealing etc. Additionally, if DOH recommends the use of individual HEPA fans we might need assistance from the state in obtaining sufficient quantities.</p> <p>Last but not least... I would ask that farmworkers are prioritized in vaccine distribution.</p>	
<p>Please consider how well the rules worked last year in worker housing. We must be able to use</p>	

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bunk beds as we did in 2020. We had housing units 15 or less and with 260 H2A workers we had zero positive COVID 19. These workers are critical for farming needs. WAFLA and the state do a great job of monitoring H2A housing.	