

CONCISE EXPLANATORY STATEMENT (CES)

Chapter 296-307 WAC, Temporary Worker Housing Part L and Cherry Harvest Camps Part L-1 and Chapter 296-833 WAC, Temporary Housing for Workers

Purpose of Rulemaking

The purpose of this rulemaking was to rewrite and clarify existing requirements related 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 also consolidated the cherry harvest camp requirements in with temporary worker housing for cohesive purposes.

Summary of rulemaking activities

DOH filed a CR-101 Pre-proposal Statement of Inquiry on October 28, 2013 (WSR 12-22-014), to amend the temporary worker housing and cherry harvest operational and inspection processes. L&I was brought into the rulemaking process in the summer of 2014 and worked jointly with DOH to file a CR-101 on June 17, 2014, holding several meetings to prepare draft language with both state agencies in attendance.

L&I held two stakeholder meetings in October in Yakima and Tumwater to get input on the draft language and changes to the rule. On December 2, 2014, the CR-102 was filed jointly with DOH.

Public hearings were held jointly on January 6 in Tumwater and Mount Vernon and January 8 in Yakima.

Changes from proposed rules:

WAC 296-307-16101 Purpose and applicability

- Added a note that states:

Note: The requirements in this part only apply to residents of the TWH facility who are also employees of the TWH facility owner. Requirements that would apply to other TWH residents, such as family members, who are not employees of the TWH facility owner, are in WAC 246-358, Temporary Worker Housing.

WAC 296-307-16103 Definitions.

- Removed “and tents” from the “TWH, temporary worker housing or housing” definition.

WAC 296-307-16115 Maximum housing occupancy.

- Updated “(10” and (11)” to “(13)” in (1)(a).
- Updated the content and format of Table 1.

WAC 296-307-16120 Variance and Procedure.

- Updated “chapter 296-901 WAC” to “900.”

- Added numbers (1)-(4).
- Added new language about temporary variances being issued.

WAC 296-307-16127 TWH Management Plan

- Updated (1)(a)(ii) to read “A plan for contacting a first-aid trained person or emergency services within a reasonable amount of time; and”
- Updated subsection lettering.
- “Employee” was changed to “occupant” throughout the entire section.
- In (2)(a), updated “proposed” to “written copy of the.”

WAC 296-307-16130 Water supply.

- Deleted handwashing in (5) and (6).

WAC 296-307-16145 Building requirements and maintenance.

- Updated (1)(a) to read “Protect against the elements.”
- Updated subsection lettering.
- Updated “employees” to “occupants” in (2).
- Updated (4) to read: “Provide a locking mechanism on the exterior door(s) of each family shelter. The mechanism must not prevent egress and must be easily opened from the inside without use of a key or special knowledge.”
- Updated (5) to read: Provide a locking mechanism on all bedroom doors, excluding doors to bedrooms housing more than fifteen occupants. The mechanism must not prevent egress and must be easily opened from the inside without use of a key or special knowledge.”
- Updated (6) to read “ Provide a locking mechanism on:
 - (a) Each toilet stall door, if provided; and
 - (b) Each shower stall door, if provided.”
- Updated (9) to read: “Comply with all applicable state and federal laws and rules for lead based paint. For more information on lead, go to <http://www.lni.wa.gov/safety/topics/atoz/lead/default.asp>.”
- Updated (13) subsection lettering and added new language to (c) with implementation dates for coming into compliance with the updated requirements, as well as information about what the requests should include and when they need to be received by.
- Updated sentence structure in (16).
- Updated (18) to read: “Provide habitable rooms with equipment capable of maintaining a temperature of at least seventy degrees Fahrenheit during cold weather.”
- Updated numbering throughout this section.

WAC 296-307-16149 Carbon monoxide alarms, smoke detectors, and fire extinguishers.

- Updated (3) and it reads: “An operator must provide properly working fire extinguishers in dwelling units where occupants sleep if the dwelling unit does not have a second means of emergency egress. Fire extinguishers must be.”

WAC 296-307-16155 Handwashing and bathing facilities.

- Updated WAC reference in (1).

- Added new language in (2)(d) and it reads: “Separate showers with partitions or walls.”
- Added subsection letter (2)(d)(i) and it reads: “Partitions and walls must ensure privacy and be smooth, cleanable and nonabsorbent.”
- Added new language to subsection letter (2)(d)(ii) with implementation dates for coming into compliance with the updated requirements.

WAC 296-307-16160 Toilet facilities.

- Updated WAC references in (1) and (5)(a).
- Added “For the purposes of this section, partitions do not include curtains, and added subsection lettering in (5)(e).
- Added new language to (5)(e)(ii) with implementation dates for coming into compliance with the updated requirements.
- Updated “employees” to “occupants” in (6)(c) and deleted Table 1.

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

- Added “covered” to (2)(a) and (b), and updated the sentence structure of (b).
- Added new language to (3)(c) and (4) about additional types of cooking surfaces that can be used.

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

- Removed language from (1) about cots only being used in tents for cherry harvest camps.
- Added new language in (3) regarding clean mattresses on beds and bunks, and subsequently renumbered the rest of the section.
- Removed language in (8) and renumbered the subsection lettering.
- Added new language in (10) with an implementation date for employers to come into compliance with the updated requirements.

WAC 296-307-16175 First aid and safety.

Removed language from (5) regarding providing a means of communication – it was moved up to the TWH management plan section and subsequently renumbered.

The department received comments about the proposed language requiring a means of reaching emergency services. It is important for workers to have this ability, but the requirement is better placed in the TWH management plan section. The proposed language was removed from WAC 296-307-16175 and added to WAC 296-307-16127, requiring a plan to enable occupants to access emergency services.

Summary of comments received and Department response

TOPIC	WAC	COMMENTS	PROPOSED RESPONSE
Effective date	296-307 General	Set effective date at least to after 2015 season, Jan. 1, 2016, for major changes.	<p>The department will delay the effective dates of specific requirements that may need additional resources or time for TWH operators to implement. The sections with delayed effective dates are noted in the CR-103P Rule Making Order.</p> <p>Was the rule changed as a result of these comments? No</p>
	General	Give 24 months for growers showing good faith effort in completing a percent or amount of changes each year – for items that require new electrical and upgrades, construction, equipment or materials to buy.	
	296-307 General	Everything exceeding federal rules needs to be grandfathered or a variance.	
	296-307 General	Grandfather structures built prior to this law's effective date.	
	296-307 General	Set effective date to early Spring 2015. Use variance process for those that can't that date.	
Purpose	296-307-16101	Add language to 001 Purpose and applicability, to recognize the legislature's intent "to encourage the development of temp and permanent housing for workers that is safe and sanitary."	<p>This section refers the reader to chapter 70.114A, which includes the legislature's intent. The department believes that it is redundant to repeat legislative intent of the TWH laws in the WACs.</p> <p>Was the rule changed as a result of these comments? No</p>
Definition	296-307-16103	Redefine TWH so it doesn't include the term "employee". Propose "worker" instead.	<p>The definition of "temporary worker housing" is the same as found in chapter 70.114A RCW.</p> <p>"Bedroom" has the common</p>
	296-307-16103	Define bedroom.	
	296-307-16103	Add definitions of the different types of inspections.	

	296-307-16103	Include in dwelling unit definition that toilet facilities are physically separated from sleeping areas and common areas.	<p>meaning found in Webster's Dictionary, and further definition is not needed.</p> <p>The context of on-site "prelicensure inspection" and "occupancy inspection" as used in this chapter are clear and do not require further definition.</p> <p>WAC 296-307-16160(4)(b) requires that toilets and urinals must not be located in any sleeping room, dining room cooking/eating facility or tent. It is unnecessary to place further specifications in chapter 296-307-16103 WAC, Definitions.</p> <p>Was the rule changed as a result of these comments? No</p>
Worker supplied	296-307-16115(2)	Operators should not be responsible for worker supplied housing.	<p>The purpose of the worker supplied housing rule is to assure that worker supplied housing is not a danger to its occupants or other occupants of the TWH. The operator needs to make sure worker supplied housing is not a health or safety hazard.</p> <p>Was the rule changed as a result of these comments? No</p>

Variance	296-307-16120	This section should provide that the department will conduct a post-occupancy inspection to ensure that the variance results in equal protection for occupants.	<p>We monitor approved variances during the next inspection which is during TWH occupancy (during the period when farmworkers occupy the housing).</p> <p>Was the rule changed as a result of these comments? No</p>
Camp Management Plan	296-307-16127(1)(a)(iii)	Don't require increased plan with training and translation – expensive and difficult.	<p>WAC 296-307-16127(1)(a)(iii) requires the TWH train a sufficient number of persons to assist in emergency evacuation. The rule does not require that these individuals be TWH occupants. But if the operator chooses to use TWH occupants for this purpose, they must be trained in their roles for assisting with emergency evacuation.</p> <p>The department agrees that providing emergency training and a management plan communicated to the occupants protects the health and safety of the occupants. It is important that the occupants understand the management plan.</p> <p>Was the rule changed as a result of these comments? Yes</p> <p>As a result of comments on this section and proposed WAC 296-307-16175, the department is revising WAC 296-307-16127 to</p>
	296-307-16127(2)(b)	Post the CMP in workers' native language as reasonable .	
	296-307-16127	Plan for emergencies and communicate that plan to the occupants.	

			require that the management plan include a plan for contacting emergency services in the event of an emergency. The department is removing the requirement in WAC 296-307-16175 that operators must provide a means of communication for contacting emergency services.
Water Pressure	246-358-055(2)	Provide adequate water pressure.	The department believes that 20 psi is sufficient and may be the maximum possible in existing facilities without replacing equipment. 30 psi is the minimum required by Drinking Water rules and is appropriate for new construction. Was the rule changed as a result of these comments? No
	296-307-16130(2)	Water pressure should be changed to 25 psi in 359 as in 358	
Handwash Water Temp	296-307-16130(5)	Don't require hot water for handwash – doesn't support expanding location of the sinks, difficult to plumb hot water to standalone stations away from toilet facilities.	Further research indicates that the use of cool water, soap and friction (rubbing hands together) is sufficient to remove germs during hand washing. Was the rule changed as a result of these comments? Yes WAC 296-307-16130(5) is revised to remove the requirement that hot water be supplied to all hand washing sinks.
Water Temp	296-307-16130(6)	Keep hot water at 110 to 120 degrees; 100 is insufficient.	Water temperatures between 100 to 120 degrees are the

	296-307-16130(6)	Keep hot water at 130 degrees.	<p>standard for dwellings and facilities and are sufficient for cleaning. The Centers for Disease Control and Prevent and the Consumer Product Safety Commission research indicates that setting the water heater temperature above 120 degrees F. can cause scalding burns, especially for children.</p> <p>Was the rule changed as a result of these comments? No</p>
Door locks	296-307-16145(5)	Don't require locks on bedroom, bathroom, toilet or shower stalls. Difficult to manage, grower needs to inspect rooms whenever, locks don't guarantee security.	<p>The department believes the personal safety and security of occupants is important. Many TWH operators already provide locks on doors. The department requires locks on: exterior doors in family shelters; bedroom doors (excluding common sleeping areas); bathroom doors; toilet and shower doors. The implementation date is January 1, 2016.</p> <p>Was the rule changed as a result of these comments? No</p>
	296-307-16145(4) and (5)	We support requiring locks on exterior, bedroom, bathroom doors and stalls if doors are provided.	
Lead-based paint	296-307-16145(9)	Require operators of TWH with deteriorated paint surfaces to stabilize those surfaces under the supervision of a certified lead-based paint abatement supervisor. (CFR 35.165(d)(2))	Added language to WAC 296-307-16145(9) to prohibit the use of lead-based paint on any part of the TWH. TWH operators must comply with all state and

	296-307-16145(9)	Make rule clearer. Should allow TWH built in 1978 as TWH and provide a packet on lead based paint.	federal laws and rules for lead-based paint.
	296-307-16145(9)	Agree with disallowing use of lead-based paint.	Was the rule changed as a result of these comments? Yes WAC 296-307-16145(9) refers the operator to state and federal requirements for questions regarding lead based paint.
Ventilation	296-307-16145(11), 296-307-16160(4)(c)(ii)	Include bathing facilities' ventilation requirements. Require bathing facilities have adequate ventilation in accordance with industry standards.	Prevention of mold and mildew are addressed by the requirement to keep bathing facilities in a clean and sanitary condition in 296-307-16155(3)(f) WAC.
	296-307-16145(11)	Provide proper ventilation to keep air fresh and prevent mold.	Proper ventilation, natural or mechanical, needed to prevent mold, is required by 296-307-16145(11) WAC. 296-307-16160(4)(c)(ii) WAC requires adequate ventilation of toilet facilities by either a screened, openable six square foot window or adequate ventilation. The department monitor's ventilation on inspection.
	296-307-16145(11), 296-307-16165(2)(j)	Provide buildings with natural ventilation in accordance with IBC section 1203.4, or mechanical ventilation in accordance with the IMC. All ventilation and air quality standards should meet the requirements of Chapter 51-52 WAC. – due to mold, respiratory infection and bronchitis, asthma symptoms, coughing, wheezing	Ventilation is required in all habitable rooms including cooking facilities by 296-307-16145(11) WAC
	296-307-16165(2)(j)	Provide cooking and food-handling facilities with ventilation capacity based on industry-accepted metrics. – for proper ventilation to allow quick removal of moisture, smoke, cooking vapors, and ensure a regular supply of fresh air.	Was the rule changed as a result of these comments? No

Emergency Escape	296-307-16145(10)	Provide each sleeping room with emergency escape, as in 359. The operator may apply for variance if not feasible.	<p>The department will take this comment under advisement for future discussion. Federal 29 CFR 1910.142 does not specifically address emergency egress in sleeping rooms. Making the suggested change would require additional stakeholder input and filing a formal rule proposal.</p> <p>Was the rule changed as a result of these comments? No</p>
Square feet per occupant sleeping areas	296-307-16145(12)(13)	Increase of 100 square feet should only be considered for new construction.	<p>The requirement for 100 square feet per worker applies only in family shelter units that have sleeping and cooking areas in the same room, and is required by federal 29 CFR 1910.142. The department has determined that it cannot waive (grandfather) a federal requirement. Nor can we increase the square footage standard as suggested in some comments.</p> <p>Some TWH operators may be able to reduce the square footage requirement in family shelter units to the current standard of 50 square feet per occupant (plus 20 square feet for the first occupant), by either providing a separator between the sleeping and cooking areas where space allows, or by</p>
	296-307-16145(12)(13)	Need grandfather clause for time to build. There's no evidence of problem with 50 square feet, this may reduce beds for many small growers	
	296-307-16145(12)(13)	Reword rule so it explains that curtains are allowed as a separator for kitchen and sleeping area.	
	296-307-16145(12)(13)	A partition to divide the kitchen and sleeping area would block light – don't require a partition.	
	296-307-16145(12)(13)	Using square feet per 'worker' in 100 ft. rule is contrary to the federal rule that says per 'person'. Replace 'per temporary worker' with the federal language 'per person'.	
	296-307-16145(12)(13)	Stay with 50 square feet per occupant ratio rather than the 100 square feet.	
	296-307-16145(13)(c)	Increase to 165 square feet per person. Consider what is overcrowding? HUD says less than 165 square feet per person is overcrowding.	

			<p>removing cooking equipment from the family shelter. However, the department recognizes that a number of TWH operators will need to increase the size of family shelter units to comply with the 100 square-foot standard, at a significant cost.</p> <p>Was the rule changed as a result of these comments? Yes</p> <p>For existing housing or housing approved for construction prior to January 1, 2016, the department will delay the effective date of the 100 square foot requirement for existing housing where sleeping and cooking areas are combined in WAC 296-307-16145(13)(c) to January 1, 2019, to give operators time to comply. A TWH operator may request an additional extension of time to meet the 100 square foot requirement if the operator makes a request prior to January 1, 2019 on a form provided by the department of health.</p>
Screen doors	296-307-16145(14)	Agree w/screen doors required on exterior door openings.	<p>Screens on all exterior openings (including screen doors) are required by 29 CFR 1910.142.</p> <p>Was the rule changed as a result of these comments? No</p>
	296-307-16145(14)	Don't require screen doors when screens and AC are provided. Have maintenance problems, let AC out.	

Heating/ Temperature	296-307-16145(18)(19)	Remove “during cold weather” from WAC 296-307-16145(16) – unnecessary and invites interpretation.	<p>Heating equipment is required in TWH facilities “during cold weather,” by 29 CFR 1910.142. The CFR requires “adequate heating” generally, and the ability to maintain 70 degrees F. in service buildings during cold weather, without defining “service buildings.” The CFR does address the ability to maintain a particular maximum temperature during hot weather.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: Chapter 296-307-16145(18) WAC</p> <p>WAC 296-307-16145(18) is revised to require heating equipment capable of maintaining 70 degrees F. in common facilities, excluding sleeping areas.</p>
	296-307-16145(17)	If space heaters are provided, require automatic-shutoff safety feature if overturned.	
	296-307-16145(18)(19)	Keep “provide adequate heat inside dwelling unit” not 70 F.	
	296-307-16145(18)(19)	Clarify 70 F requirement, confusing, easy to misinterpret.	
	296-307-16145(15)	Provide a safe temperature range for occupants of between 70 – 80 degrees F	
	296-307-16145(18)(19)	Don’t require minimum 70 degree temperature during cold weather. It is in excess of the federal rule – adds cost.	
	296-307-16145(18)(19)	Provide a means to prevent inside dwelling temperatures from exceeding 80 degrees – heat related illnesses need cooler recovery time, heat reduces sleep and quality sleep, which increases work injury risk, anxiety, depression, and pain.	
Carbon Monoxide Alarms, smoke detectors, fire extinguishers	296-307-16149(1)	Don’t require carbon monoxide alarms at all.	<p>The department has determined that providing carbon monoxide alarms in TWH is an important health and safety requirement. CO is a colorless, odorless gas produced by burning propane, oils, charcoal, wood, and similar</p>
	296-307-16149(1)(a)	Don’t require carbon monoxide alarms in all facilities. Only require them in units using fuel burning equipment.	
	296-307-16149(1)(2)	Require that carbon monoxide detectors make a warning noise when their batteries are low.	

	296-307-16149(3)	Clarify whether fire extinguisher ratio would be one per cooking facility, one per unit, one per family shelter	<p>fuels that can cause injury or death from asphyxia. WAC 296-307-16149(1) requires a carbon monoxide detector in all dwelling units.</p> <p>The department recognizes that occupants should never try to fight a fire in their TWH dwelling unit, and instead they should exit the building as quickly as possible.</p> <p>Was the rule changed as a result of these comments? Yes</p> <p>WAC 296-307-16149(3) is revised to require a working fire extinguisher in each dwelling unit with a sleeping area or common sleeping facility if the unit or facility does not have more than one emergency egress.</p>
	296-307-16149(3)	Don't require fire extinguishers at all.	
	296-307-16149(3)	Require a minimum of two fire extinguishers, installed in accordance to local ordinances.	
	296-307-16149(3)	Require fire extinguishers.	
	296-307-16149	Don't require smoke detectors.	
	296-307-16149(2)(c)	Don't require smoke detectors in kitchens and not in common cooking.	
	296-307-16149(2)(c)	We support a requirement for smoke detectors in all dwelling units including kitchens.	
Drain screens	296-307-16150(1) (c), 16160(4)(v), 16155(2)(b)	Don't require floor drains to have screens – it is cosmetic and costly.	<p>The department has determined that screening open floor drains helps protect the health and safety of the occupants by reducing TWH occupants' exposure to dirty water backed up from clogged drains.</p> <p>Was the rule changed as a result of these comments? No</p>

Toilet	296-307-16160(5)(e)	Provide partitions for facilities with multiple toilets for basic dignity.	<p>The department has determined toilet partitions are necessary to maintain human dignity. However, we recognize this may result in a financial burden for some growers. The department will delay implementation to January 1, 2017 and allow operators to request an extension of no more that twelve months if the operator has shown a good faith effort towards compliance.</p>
	296-307-16160(5)(e)	Don't require partitions between toilets – challenging for existing facilities. Costly for new and old construction.	
	296-307-16160(5)(a)	DOH misinterpreted CFR – two toilet minimum is cumulative - one for men and one for women. Often camps house few females, far from need for two toilets.	
	296-307-16160(5) (a)	Provide toilets at 1 per 6 occupants.	
	296-307-16160(4)(a)	Incorporate the construction requirements of 358-093 into 359-560. Specifically – use of flush toilets.	
	246-358-093(5)	Incorporate the construction requirements of 358-093 into 359-560. Specifically – Provide adequate space for toilet stalls. (359)	<p>The department has reviewed the minimum number of toilets required by 29 CFR 1910.142, and has determined that the CFR can be interpreted as requiring a minimum of two toilets in common facilities that may be:</p> <ul style="list-style-type: none"> • One each for men and women if the TWH houses both men and women, or • Two if the TWH only houses men, or only houses women. <p>The ratio of one toilet for every 15 persons in common toilet facilities, with a minimum of two toilets, is required in 29 CFR</p>

			<p>1910.142. This ratio appears adequate for providing healthy and safe TWH facilities.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: Chapter 296-307-16160(5)(e) and Table 1 WAC</p> <ul style="list-style-type: none"> • WAC 296-307-16160(5) and Table 1 were revised to require a minimum of two toilets in common facilities, which may be one each for men and women if the TWH facility houses both men and women, and may be two minimum if the facility houses only men or only women. • WAC 296-307-16160(5) was revised so that toilet stalls must provide privacy and have smooth, cleanable and nonabsorbent surfaces. The department will delay the effective date of the toilet partition requirement for existing housing to January 1, 2017 to give operators time to comply. A TWH
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			operator may request an additional extension up to one year to meet the toilet partition requirement if the operator provides evidence of progress toward compliance with the rule.
Urinal partitions	296-307-16160(4)(e)	Provide privacy partitions between urinals.	Federal regulation 29 CFR 1910.143 does not require partitions between urinals. Many common toilet facilities provide urinals without partitions, including in many schools, stadiums, parks, etc. Was the rule changed as a result of these comments? No
Lighting toilets	296-307-16160(5)(g)	Replace 'adequate' lighting with appropriate lumens	The department believes that the term 'adequate' gives us more flexibility for enforcement. Lighting is required for all toilet facilities, except the interior of chemical toilets. The operator must provide exterior lighting for all toilet facilities. Was the rule changed as a result of these comments? No
	296-307-16160(5)(g)	Agree with additional lighting around toilet facilities.	
	296-307-16140(1) and (5)	Only exempt chemical toilets from electrical & lighting requirement if not used to meet minimum number toilets required, otherwise they must meet the minimum requirements for lighting/be well lit without.	
Bathing	296-307-16155(1), 296-307-16115 Table 1	Provide sufficient bathing facilities to allow all workers to promptly shower after work.	The federal 29 CFR 1910.142 and the current TWH rule for common bathing facilities require 1 shower to every 10 occupants,
		Increase bathing/shower to 1 per 10 occupants.	

	296-307-16155	Provide shower facilities protected from the elements, including wet and freezing weather.	<p>which the department believes is sufficient.</p> <p>Federal 29 CFR 1910.142 requires all shelter facilities be protected from the elements, which would include wet and freezing weather.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: WAC 296-307-16145(1) The department has determined shower partitions are necessary to maintain human dignity. However, we recognize this may result in a financial burden for some growers. The department will delay the effective date of the shower partition requirement for existing housing to January 1, 2017 to give operators time to comply.</p>
	296-307-16155(5)(f)	Provide privacy partitions between showers, partitioned on all sides up to at least 6 feet, and down to no more than 12 inches from the floor.	
	296-307-16155	Set a minimum size for showers – e.g. IBC – 900 square inches and 30 inches minimum dimension.	
	296-307-16155(2)(e)	Don't require partitions between showers for privacy – costly for new and old construction.	
	296-307-16155 & 296-307-16165	Agree with single faucet that mixes hot and cold water.	
Single faucets	296-307-16155(2)(a) and 296-307-16165(2)(d),	Don't mandate single faucets, should be choice. Not a problem.	<p>The rule language to require single faucets was removed from a working draft of Chapter 296-307 WAC prior to the formal proposal (the CR-102).</p> <p>Was the rule changed as a result of these comments? No</p>
	296-307-16155 & 296-307-16165	Agree with single faucet that mixes hot and cold water.	

Cooking	296-307-16165(2)(a)	All cooking and food-handling facilities should be <u>covered</u> and enclosed or screened.	<p>Federal regulation 29 CFR 1910.142 requires all shelters in TWH to be protected from the elements, including cooking, eating and food handling facilities.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: WAC 296-307-16165(2)(a) was revised to require food handling facilities be covered as well as enclosed or screened.</p>
Eating area	296-307-16165(2)(b)	All eating facilities should be <u>covered</u> and enclosed or screened. They must protect from the elements including wet and freezing weather.	<p>Federal regulation 29 CFR 1910.142 requires all shelters in TWH to be protected from the elements, including cooking, eating and food handling facilities.</p> <p>The department reviewed the CFR and has determined that it does not set a specific ratio for the number of dining seats to the total TWH occupancy.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: WAC 296-307-16165(2)(a) and (b) was revised to require that eating facilities be covered as well as enclosed or screened. The TWH operator</p>
	296-307-16165(2)(b)	Don't require screening for dining/eating facilities.	
	296-307-16165(2)(b)	Reduce to 50% seating, 70% is too high and arbitrary.	

			must provide adequate tables and seating for occupants.
Sinks – kitchen	296-307-16165(2)(c)	Provide kitchen sinks large enough to allow food-handling and kitchen cleaning.	Kitchen sinks are designed to be appropriately sized for kitchen activities. The department has not received complaints about the size or number of kitchen sinks required in the current rules. Was the rule changed as a result of these comments? No
	296-307-16165(2)(d)	Provide at least one kitchen sink per 10 occupants in common cooking and food-handling facilities.	
Food prep	296-307-16165(2)(f)	Provide sufficient counter space for food preparation.	The department has not received complaints about the amount of counter space, cabinets or shelving in TWH facilities, and commenters have not indicated what amount of space would be adequate. See comments on WAC 296-307-16165(3)(c) regarding hotplates. Was the rule changed as a result of these comments? No
	296-307-16165(2)	Provide cabinets/shelving sufficient to store occupants' food and kitchen supplies	
	296-307-16165(2)	Do not count hotplates toward the required number of cooking surfaces. Hotplates do not have adequate cooking space and take up limited counter space.	
Refrigerator	296-307-16165(2)(g)	Require sufficient refrigerator space to store occupants' food that requires refrigeration.	There have been no issues with the current requirement for 2 cubic feet of refrigerator space. Freezer space is not required by
	296-307-16165(2)(g)	The freezer compartment should be able to maintain a temperature below 0/-18 F/C.	

	296-307-16165(2)(g)	Refrigerators must be able to maintain a temperature less than 41 degree F (6 degree C) but more than 32/0 degree F/C, in the main compartment. – be specific.	29 CFR 1910.142. The refrigerator is the main compartment and the rule set the maximum temperature for this space. These rules are consistent with food code standards. Was the rule changed as a result of these comments? No
Burners	296-307-16165(3)(4)	If operator can show there is not adequate space to add burners, grandfather clause or variance.	The ratio of four burners for every ten persons in common facilities is required by 29 CFR 1910.142. The department cannot waive (grandfather) a federal requirement. But the department agrees that allowing microwave can offer some flexibility. Microwave ovens, for example, can be placed above or below a counter, and more than one microwave can be installed in a vertical cabinet or shelving unit to reduce the impact on counter space. The department has allowed hotplates to meet the burner requirement in the past and will continue to do so. Was the rule changed as a result of these comments? Yes Rules changed: WAC 296-307-16165(3)(c) was revised to allow microwave ovens, stove ovens or convection oven to meet the ratio of four cooking surfaces for
	296-307-16165(3)(4)	Don't require the increased number of burners.	
	296-307-16165(3)(4)	Count microwaves and ovens as cooking surfaces.	
	296-307-16165(3)(4)	Provide cooking surface ratio of no more than four surfaces for every ten occupants. Make family facilities consistent with common food-handling facilities.	
	296-307-16165(3)(4)	Provide one cooking surface for every two occupants in dwelling units and common food-handling facilities.	

			every ten occupants.
Beds, cots, mattresses	296-307-16170(1)	Do not limit cots to tent housing. Cots are good for alternatives, overflow. Expensive to replace existing cot use in regular TWH.	The federal regulations 29 CFR 1910.142 allows cots in TWH facilities including tents.
	296-307-16170(1)	Agree with limiting cots to tents.	
	296-307-16170(1)	Do not allow mattresses or cots to have sag beyond standard recognized by the mattress industry.	WAC 296-307-16170(1) requires TWH operators to furnish clean mattresses in “good condition”. The department has determined that sag greater than the manufacturers recommended amount is an indication that a mattress is not in good condition. The department has found no research or federal requirement that mattresses be at least twin sized.
	296-307-16170(2)	Provide beds and mattresses at least twin sized.	
	296-307-16170(8)(c)	Don't require top bunk rail. No known problem for expense, unnecessary. Occupants won't like them, stepping over rail may cause falls – just cosmetic.	

			<p>TWH sleeping rooms.</p> <ul style="list-style-type: none"> WAC 296-307-16170(8)(c) is revised to remove the requirement for rails on top bunks.
Bedding	296-307-16170(5)	Increase minimum space between cooking surfaces and beds to no less than 60 inches - prevent spray of oil/food.	<p>Federal 29 CFR 1910.142 requires beds and cots to be at least 36 inches apart from each other, but does not address a distance from cooking areas. The department believes that setting a reasonably minimum distance between beds and cooking surfaces of 36 inches will help reduce the risk of injuries and possible death from cooking splatters or fire.</p> <p>Was the rule changed as a result of these comments? No</p>
Personal storage	296-307-16170(9)(10)	Don't require lockable personal storage – it would be very challenging. – costly to replace plastic storage bins.	<p>Federal regulation 29 CFR 1910.142 requires that operators provide storage for TWH occupants' belongings. Providing lockable personal storage for each farmworker may assure occupants that their medications and other valued belongings are safely stored, and may reduce operator time and costs of pursuing complaints about lost or stolen belongings.</p> <p>WAC 296-307-16170 requires lockable storage for workers in common dwelling units.</p>
	296-307-16170(9)(10)	Provide adequate space for occupants to store their belongings while having a decent amount of space to move around.	

			<p>Providing or constructing lockable, anchored storage could be costly for TWH operators; therefore, the department is allowing a delayed implementation date of January 1, 2017.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: WAC 296-307-16170(9) WAC was revised to remove the requirement to provide lockable storage for occupants living in family shelters.</p>
Emergency communications	296-307-16175(5)	Don't require operator provide a means of communication – too difficult and costly, may be impossible.	<p>The department understands that emergency communications can be vital to alert emergency services when needed, especially in areas without cellular phone service. But the proposed rule was not intended to specify a specific type of communication device, nor a specific amount of time to alert emergency services.</p> <p>Was the rule changed as a result of these comments? Yes Rules changed: WACs 296-307-16175(5) requiring a “means of communication” was deleted. Language was added to WAC 296-307-16127 to require the camp management plan to include a communications plan</p>
	296-307-16175(5) 296-307-16127(1)	We support requiring means of communication for contacting emergency services within two minutes of an emergency.	

			for contacting emergency services in the event of an emergency, but does not require a specific method.
Disease prevention	296-307-16190(2)(c)	Remove 'productive cough' from the list of symptoms – too stringent & not necessarily indicative of a health problem.	The department believes that 'productive cough' is a reasonable symptom to note regarding potential health problems such as tuberculosis and other diseases. Rural areas of the state with higher numbers of immigrants have higher rates of tuberculosis than the state average. Was the rule changed as a result of these comments? No
Pesticides	General	Do not increase requirements related to pesticides.	The department is concerned for worker and occupant safety. In 2014, the legislature created a workgroup on agriculture labor issues, convened by the state Department of Employment Services. The workgroup included the Department of Health and various stakeholders affected by agricultural policies.
	246-358-095(3)(b)	Provide at least 1:6 shower/bath to enable workers to bathe soon after work, minimize contamination at home. Insufficient showers result in pesticides remaining on skin.	
	General	Locate TWH to reduce agricultural pesticide exposure; i.e. not in close proximity to fields or orchards where pesticides are used. Provide a 500-foot buffer zone around TWH where agricultural pesticides are applied using a drift-prone method: aerial, airblast, or fumigation.	

	General	Advise/notify occupants to stay indoors or remain out of TWH site, bring personal items inside, close all windows and doors during specified time period if pesticides will be applied using a drift-prone method. Post at central location, at least six hours in advance of planned application to an adjacent field or orchard.	<p>In the draft report, the workgroup identified pesticide issues as an important area to address, but suggested doing so on a broader level than TWH housing alone.</p> <p>Requirements related to the use of pesticides by employees are enforced by the Division of Occupational Safety and Health (DOSH) and are located in Chapter 296-307 WAC, Part I, Pesticides (Worker Protection Standard).</p> <p>Was the rule changed as a result of these comments? No</p>
	296-307-16103	Add RCW 70.104.020 definition of 'Pesticide' to the rules.	
	296-307-16150(1)(a)	Provide sufficient washing machines to enable workers to maintain clean work clothes, and wash their work clothes separately from non-work clothes, using smaller loads set on longer cycle – considered best practices for farm workers. Provide at least 1:10 washing machines.	
	296-307-16150(1)(b)	Provide at least 1:10 drying machines. Provide clothes lines for drying washed contaminated clothing – sunlight can help degrade remaining pesticides.	
	296-307-16150(1)	Disallow laundry tubs or trays for work clothes. Washing work clothes by hand exposes occupants to pesticides.	
	General	Provide each worker with dedicated, sealable bag/bin to store pesticide-contaminated work clothing in – Must not to mix work clothes with non-work clothes.	
SBEIS	SBEIS	Not realistic, cost estimates are too low. Completely redo the report before implementing the proposed rules.	<p>The SBEIS provides the low end of cost estimates.</p> <p>Was the rule changed as a result of these comments? No</p>