



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, September 15, 2022

Time: 8:30 a.m. – 11:30 a.m.

Location: ZOOM meeting due to COVID-19

Committee members present

- Jon DeVaney
- Delia Peña
- Victoria Ruddy
- Edgar Franks
- Jeff Perrault

ESD staff

- Dan Zeitlin
- Vickie Carlson
- Petra Meraz
- Olivia Gutierrez
- Tamara Johnson
- Olga Kondratjeva
- Gustavo Aviles
- Rene Maldonado
- Juan Martinez

Non-voting agency representatives

- Ignacio Marquez
- Uriel Iniguez

Committee members absent

- Michele Besso
- Michael Gempler
- Rosalinda Guillen
- Todd Phillips

Summary

Meeting Recorded

This meeting was recorded and is available on <https://esd.wa.gov/newsroom/Ag-committee>

Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Vickie Carlson to take roll. Five voting members were present. Motion to approve the August 18th meeting minutes- Jon DeVaney, 2nd from Jeff Perault. Motion carries. Motion to approve the September 1st meeting minutes- Jon DeVaney, 2nd from Delia Peña. Motion carries.

Agenda

Recording timestamp **00:02:20**

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. (See Addendum I.)

ASWS Office Update – ASWS Office, ESD (See Addendum II.)

FLC Applications – Petra Meraz, Lead FLC Program Coordinator

Recording timestamp **00:04:55**

ASWS Office & Compliance Update – Margarito Cabrera, Compliance Supervisor

Recording timestamp **00:06:47**

Joint Legislative Audit & Review Committee (JLARC) (See Addendum III.)

Recording timestamp **00:12:33**

Notice of H-2A Program Review

Jill Satran, Research Analyst & Zane Potter, Research Analyst

Long Term Care Withholding Exemption Discussion (See Addendum IV.) Recording timestamp **00:25:21**
April Amundson, Policy and Rules Manager, Leave & Care Division

Housing Presentation & Panel – Bertha Clayton, Juan Gamez, Uriel Iniguez (See Addendum V.)
“Temporary Worker Housing Certification 101” Recording timestamp **00:39:11**

- Petra Meraz, FLC Lead, Olivia Gutierrez & Tamara Johnson, Coordinators, ASWS office
Recording timestamp **00:53:07**
- Juan Gamez, Lodging Section Manager, DOH
Recording timestamp **01:05:15**
- Teri Neely, Program Manager, DOSH, LNI

Panel Q&A Recording timestamp **01:11:12**
Petra Meraz (FLC), Juan Gamez (DOH), Doug Hartfield (DOH), Teri Neely (LNI), Bradley Farrar (LNI)

Status of the LNI Emergency Heat Rules (See Addendum VI.) Recording timestamp **01:59:39**
Teri Neely, Program Manager, Labor & Industries

Future Agenda Items Recording timestamp **02:11:33**

- Complaint Presentation

Public Comments
None

Adjourned
Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 10:35 a.m.

2022 Meetings

The next Agricultural and Seasonal Workforce Services Advisory Committee meeting is on:

- **October 20, 2022 – 8:30 a.m. to 11:30 a.m. – Zoom Meeting**

Addendums

ADDENDUM I.

Agenda



AGENDA

Agricultural and Seasonal Workforce Services (ASWS)
Advisory Committee Meeting

Thursday, September 15, 2022, | 8:30 am – 11:30 am | Zoom | 212 Maple Park Ave SE Olympia WA 98501

TIME	TOPIC
8:30 am	Welcome – Daniel Zeitlin, Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none"> • Roll Call – Vickie Carlson • Agenda Review – Daniel Zeitlin
8:40 am	Approval of Meeting Minutes – Daniel Zeitlin <ul style="list-style-type: none"> • August 18, 2022 • September 1, 2022
8:45 am	ASWS Office Update – Bertha Clayton, Director, ASWS Office <ul style="list-style-type: none"> • FLC Applications – Petra Meraz, FLC Lead Coordinator • ASWS Office & Compliance – Bertha Clayton
9:00 am	Joint Legislative Audit & Review Committee (JLARC) – Notice of II 2A Program Review Jill Satran, Research Analyst & Zane Potter, Research Analyst
9:10 am	Long Term Care withholding exemption discussion – April Amundson, Policy and Rules Manager, Leave & Care Division
9:25 am	Housing Presentation & Panel – Bertha Clayton, Juan Gamez, Uriel Iniguez <ul style="list-style-type: none"> • "Temporary Worker Housing Certification 101" <ul style="list-style-type: none"> ◦ Petra Meraz, Lead FLC Coordinator, Olivia Gutierrez & Tamara Johnson, FLC Coordinators, ASWS office ◦ Juan Gamez, Lodging Section Manager, DOH ◦ Teri Neely, Program Manager, DOSH, LNI
10:05 am	Break
10:15 am	Panel Q&A Petra Meraz (FLC), Juan Gamez (DOH), Doug Harfield (DOH), Teri Neely (LNI)
11:00 am	Status of the LII emergency heat rules – Ryan Allen, Standards, Technical, & Laboratory Services Program Manager, Labor & Industries
11:20 am	Closing Discussion <ul style="list-style-type: none"> • Future Agenda Items
11:25 am	Public Comment
11:30 am	Adjourn

GROUND RULES

No side conversations | Phones on silent | Let people speak without interruption | Respect the opinion of others | Strive for understanding | Seek your mind | Drive for common ground | Assume good intent | Stay focused on task at hand and be willing to come back to the topic | Make sure everyone understands | Look out for each other | Take care of your own comfort | Ask for what you need

ADDENDUM II.

ASWS Office Update



ASWS Advisory Committee Presentation
September 15, 2022
Petra Meraz, Lead FLC Program Coordinator, ESD
Bertha Clayton, ASWS Director, ESD
Employment Security Department

FLC Applications



	PY 2022 H-2A Data		PY 2021 H-2A Data	
	10/1/2021	9/10/2022	10/1/2020	9/10/2021
	Applications	Workers requested	Applications	Workers requested
Total to date	395	34655	345	29925
Withdrawn/Denied	30	2682	13	595
Contracts Commenced	352	31311	324	28958
Contract Impossibility	4	406	0	0
Active Cases	313	28050	278	26423

*The numbers reported are not reflective of the number of foreign workers that arrive in Washington State.

Compliance Unit Region Office	
Counties served	# of workers
Auburn	
Pierce, King, Snohomish Skagit, Whatcom Thurston, Mason, Kitsap Grays Harbor, Jefferson, Okanogan, San Juan Islands	535
Okanogan	
Okanogan Ferry Stevens Pend Oreille	6199
Walla Walla	
Walla Walla Columbia Garfield Pocahontas	1169
Columbia Basin	
Benton Franklin	3879
Wenatchee	
Chelan Douglas	4667
Central Basin	
Grant Lincoln Adams Spokane, Whitman	6396
Yakima	
Yakima, Kittitas Klickitat, Skamania Clark, Cowlitz Wahkiakum, Pacific Lewis	11806



Field Checks – 2022



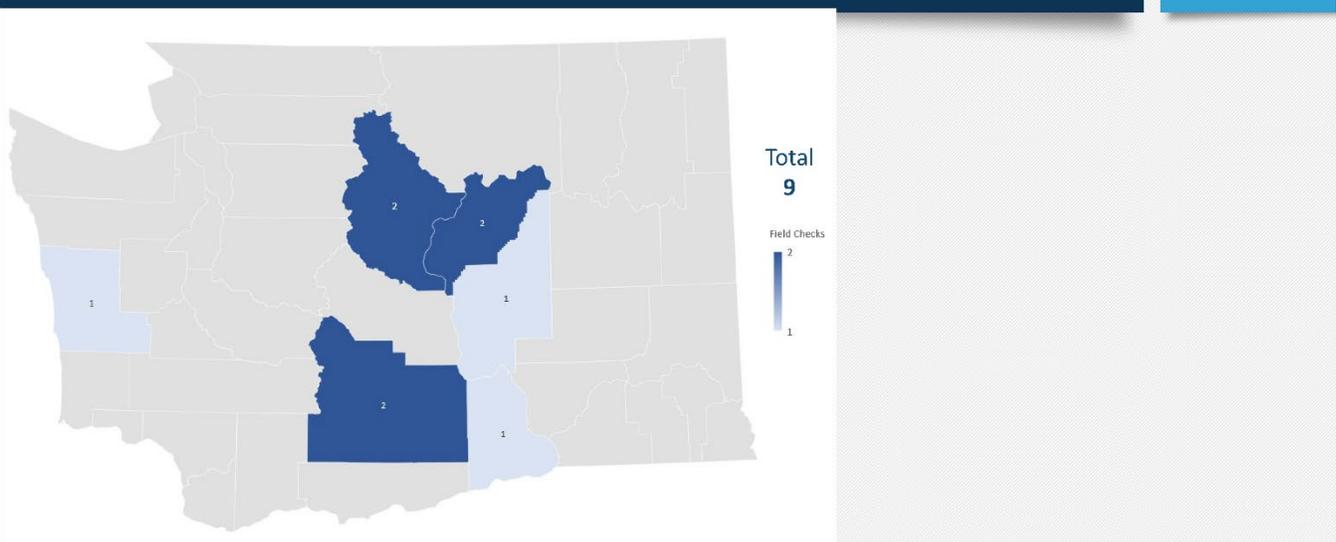
20 CFR 653.503 Field Checks

(a) If a worker is placed on a clearance order, the SWA must notify the employer in writing that the SWA, through its ES offices, and/or Federal staff, must conduct random, unannounced field checks to determine and document whether wages, hours, and working and housing conditions are being provided as specified in the clearance order.

(c) Field checks must include visit(s) to the worksite at a time when workers are present. When conducting field checks, ES staff must consult both the employees and the employer to ensure compliance with the full terms and conditions of employment.

Number of Placements (seeker referred and started working)	11
Number of Field Checks Performed by ASWS	9
Number of Field Checks currently scheduled	1

ASWS Field Checks by County (1/1/22 - 9/12/22)



ADDENDUM IV.

Joint Legislative Audit & Review Committee:
Notice of H-2A Program Review



ASWS Advisory Committee Presentation

September 15, 2022

Jill Satran, Research Analyst, JLARC

Zane Potter, Research Analyst, JLARC

Joint Legislative Audit & Review Committee (JLARC)

Washington State Legislature's **performance auditors**
since 1973

Bipartisan committee of 8 Senators and 8
Representatives

Nonpartisan staff conduct studies using professional
audit standards

Studies are assigned by the Legislature or the
Committee



JLARC Farmworker Studies

Assess how agencies administer farmworker programs and enforce relevant laws.

✓ H-2A visa program for farmworkers

✓ Workplace wage, health, and safety standards

✓ Pesticide safety

2022 Supplemental Budget, ESSB 5693, Sec 3 (6)



CONTACTS

Audit Coordinator

- Valerie Whitener, valerie.whitener@leg.wa.gov

H-2A visa program for farmworkers

- Jill Satran, jill.satran@leg.wa.gov
- Zane Potter, zane.potter@leg.wa.gov

Workplace wage, health, and safety standards

- Rebecca Connolly, Rebecca.Connolly@leg.wa.gov

Pesticide safety

- Aaron Cavin, aaron.cavin@leg.wa.gov



ADDENDUM V.

Long Term Care withholding exemption



Leave & Care Division
April Amundson, Policy and Rules Manager
Leave & Care Division, ESD

WA Cares Fund Voluntary exemptions for nonimmigrant work visa holders



2022 legislative session - SHB 1732 and ESHB 1733 pass



Rulemaking for new voluntary exemptions



Process for workers to apply for exemptions



- Delayed Program by 18 months
- Added four new voluntary exemption types

- Rulemaking hearing 9/6/2022
- Feedback from stakeholders regarding nonimmigrant work visa holders

- Applications accepted beginning 1/1/2023
- Requesting input on how to best engage eligible workers

Contact: april.amundson@esd.wa.gov
or janette.benham@esd.wa.gov

ADDENDUM VI.

Temporary Worker Housing Certification 101



Agricultural & Seasonal Workforce Services

Foreign Labor Certification Team

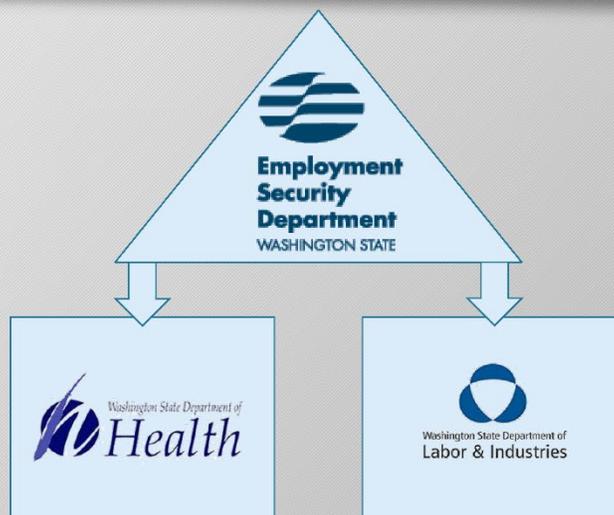
Petra Meraz, Lead Program Coordinator

Olivia Gutierrez, Program Coordinator

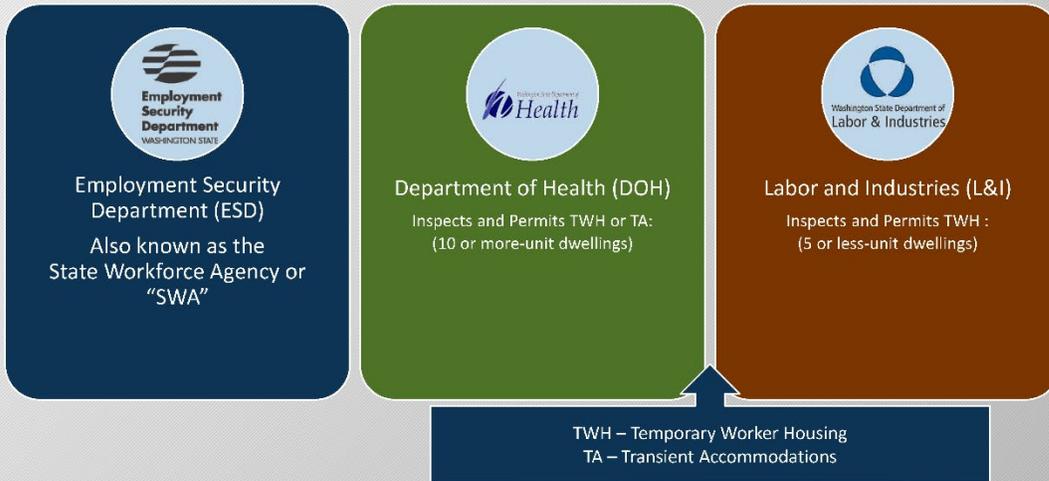
Tamara Johnson, Program Coordinator

Employment Security Department

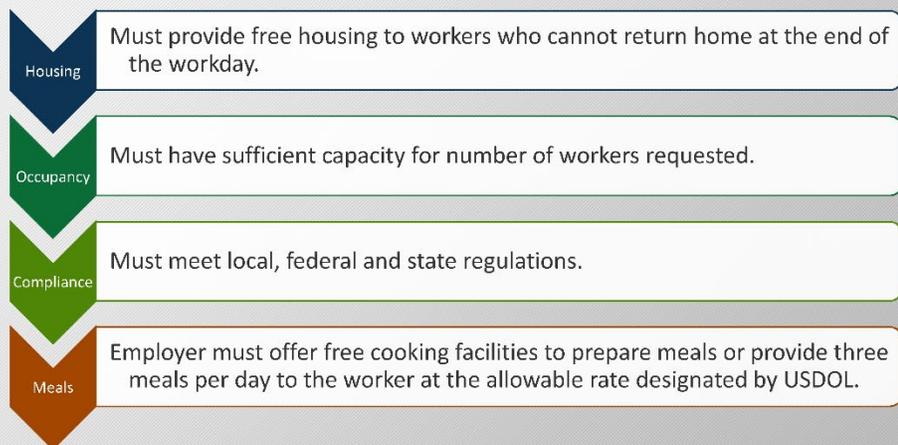
Certifying agencies



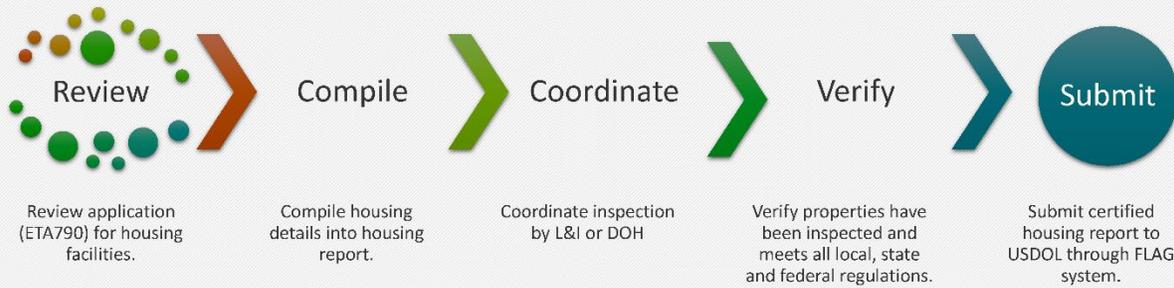
Inspections overview



Employer assurances



SWA housing certification overview



Common issues



2022 Tools for resolving issues



If housing becomes unavailable



Post-certification; for reasons outside the employer's control, the employer must notify the SWA in writing of the change.

- Provide the reason(s) for change
- Provide the SWA evidence of compliance with the applicable local, State or Federal regulations

Submit a housing amendment request to:

- Temporary Labor Certification at tlc.chicago@dol.gov and must cc the SWA wcdh2a@ESD.WA.GOV

Once the employer submits the housing amendment request the SWA will:

- Verify compliance
- Certify the request
- Provide DOL an updated Housing Report

The SWA must notify the CO of any noncompliance with the standards set forth in paragraph (d)(1)(ii) of this section. Substantial noncompliance can result in revocation of the temporary labor certification under §655.117.

Thank you!



FLC Program Coordinators:

Petra Meraz, Lead Program Coordinator
Olivia Gutierrez, Program Coordinator
Tamara Johnson, Program Coordinator

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

REGIONALIZATION OF THE LODGING PROGRAM

Next steps:

- Cross-training all lodging inspectors in TWH/TA
- Establishing inspection regions for each inspector around the state
- Assigning regions to inspectors
- Measure travel time, inspection time, response time

Results:

- Increase availability to respond to requests and inquiries, follow up inspections, complaints and joint inspections with LNI and ESD
- Increase response time and support our TWH/TA customers, partners, and community
- Increase efficiency with resources and time
- More work-life balance for all inspectors

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

REGIONALIZATION OF THE LODGING PROGRAM

Purpose of Project: Regionalizing Lodging Program

Goal: Provide more inspection capacity around the state

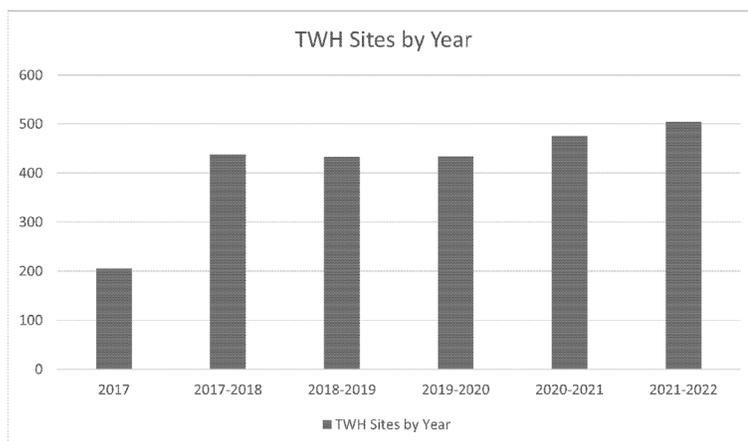
Description: Need to increase more inspection support around the state

Target:

- Increase time management
- Best use of resources
- Reduce travel time
- To create a work-life balance for all inspectors

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Number of TWH Sites Licensed Since March 2017



TWH Active Sites:

March 2017: 206 Open Facilities received in data transfer

2017-2018: 438 Open Facilities

2018-2019: 433 Open Facilities

2019-2020: 434 Open Facilities

2020-2021: 476 Open Facilities

2021-2022: 504 Open Facilities

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Licensing Requirements

The Licensing Process (continued):

- I. TWH Pre-Occupancy Inspection scheduled and conducted
 - I. Violations observed are emailed on a Statement of Deficiencies
 - II. Critical violations require a follow-up inspection
 - III. If no violations are found, we email a Statement of No Deficiencies
- II. Licensing Support Specialist reviews the TWH inspections
 - I. Once there are no deficiencies, we mail the owner:
 - I. Approval Letter
 - II. Copy of TWH License
- III. Occupancy Inspection is Conducted During Harvest Season

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Licensing Requirements

The Licensing Process (continued):

Application packet is reviewed by the Licensing Support Specialist:

- If any information is missing, we call the site primary contact and email an Acknowledgement with Deficiencies letter (e.g., missing Certificate of Occupancy, etc.).
- Once all missing documentation or information is received, we email the following to the site primary contact:
 - Acknowledgement of No Deficiencies letter
 - TWH Inspection Checklist (emailed to operator)

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Licensing Requirements

The Licensing Process (continued):

New construction or remodeling requires plan review by local building department or DOH Construction Review Services or LNI (e.g., Factory-Assembled Structures)

Renewals: TWH sites who were licensed the previous year, will receive a renewal notice form and shall submit the following:

- Renewal form
- Licensing fee
- Public Water System Compliance (water source, nitrate and coliform results)

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Licensing Requirements

The Licensing Process:

The operator submits a TWH application packet to the Department of Health consisting of:

- Temporary Worker Housing application
- Licensing fees
- Camp Management Plan
- Revised Camp Management Plan for Emergency Rule (checklist)
- Public Water System Compliance (water source & nitrate and coliform results)
- Certificate of Occupancy, DOH-CRS approval letter, LNI's Factory-Assembled Structures program, or other acceptable documentation

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Licensing Requirements

When a TWH License is Required:

Any operator providing Temporary Worker Housing (TWH) shall apply for a TWH operating license from the Department of Health when:

- The TWH consists of:
 - Five or more dwelling units; or
 - Any combination of dwelling units, or spaces that house ten or more occupants (including accompanied family members)
- Compliance with the Migrant and Seasonal Agricultural Worker Protection Act requires a license
- Any number of tents for any number of occupants
- The operator elects to comply with Chapter 246-359 (TWH Construction Standard)

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

Rules and Regulations

RCW 70.114A

Applies to temporary worker housing that consists of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants.

WAC 246-358

This chapter was adopted by DOH to implement the provisions of chapter 70.114A RCW and RCW 43.70.334 through 43.70.340 and establish minimum health and safety requirements for temporary worker housing and cherry harvest camps.

8th Emergency rule (CR-103E) - Temporary Worker Housing- effective May 20, 2022.

DOH and LNI adopted revisions to the initial emergency rule for temporary worker housing to protect occupants from COVID-19 hazards.

TEMPORARY WORKER HOUSING-LICENSING OVERVIEW

LODGING PROGRAM – TWH TEAM

- Housing Inspector- Eddie Marines
- Housing Inspector- Maira Cardenas
- Housing Inspector- Scott Reiber-In training
- Housing Inspector- Cristal Rodriguez-In training
 - Technical Lead- Doug Hartfield

- Cross-training for Regionalization:
 - Housing Inspector- Sanjay Matken
 - Housing Inspector- Jamie VanDyke

- Licensing Support Specialist- Mary Roberts-new hire
 - Administrative Assistant- Rhiannon Dolinski

- Lodging Supervisor- Jerry Caird
- Program Manager- Juan Gamez Briceno

TEMPORARY WORKER HOUSING –LICENSING OVERVIEW

Program Services:

The Temporary Worker Housing Program offers services to growers, housing operators and developers to ensure housing facilities meet the state health and safety standards. These services help developers and housing providers to move through the development and licensing system.

Services include:

- Consultation and Technical Assistance
- Construction and Building Department Services
- Inspections
- License Requirements
- Investigation and Enforcement



TEMPORARY WORKER HOUSING

Lodging Program- Office of Environmental Health and Safety

For further communications, please contact us at:

juan.gamezbriceno@doh.wa.gov

gerald.caird@doh.wa.gov

douglas.hartfield@doh.wa.gov

housing@doh.wa.gov

Temporary Worker Housing Inspections

Teri Neely
Labor & Industries
Division of Occupational Safety & Health (DOSH)

TWH certification overview

- ▶ Request for inspection received from Employment Security Department (ESD), Agricultural & Seasonal Workforce Services.
- ▶ DOSH Agriculture Technical Specialist contacts employer to schedule worksite visit.
- ▶ During the visit, the Technical Specialist uses a checklist to assess the housing and determine whether it meets DOSH requirements in WAC 296-307-161 Temporary Worker Housing.
- ▶ An inspection report is completed following the visit and forwarded to ESD.

TWH Checklist Items

- Potable water available for drinking, cooking, bathing, and laundry
- Sewage
- Electricity
- Lighting
- Laundry facilities
- Handwashing, showers, bathing, toilet facilities
- Areas are clean, sanitary, operating properly
- Cooking and food handling facilities, storage, food prep areas
- Bedding
- Personal storage
- First aid training
- Insect and rodent control
- 16-mesh screens
- Disease prevention and control program

ADDENDUM VII.

Temporary Worker Housing Panel Q&A



Advisory Committee Presentation

September 15, 2022

Petra Meraz (FLC)

Juan Gamez (DOH), Doug Hartfield (DOH)

Teri Neely (LNI), Bradley Farrar (LNI)

Status of the LNI emergency heat rules



Advisory Committee Presentation

September 15, 2022

Teri Neely, Program Manager,
Labor & Industries

Outdoor Heat Stress



Emergency rule issued in 2021 and 2022

Permanent rulemaking effort underway with completion goal of June 2023

- Stakeholder meetings held on
 - 3/17/22
 - 5/4/22
 - 8/4/22 (Available for viewing on TVW)
 - 8/31/22 (Available for viewing on TVW)
- [Ambient Heat Exposure Rulemaking \(wa.gov\)](#)
 - Rulemaking documents and draft rules available

Outdoor Heat Stress



High level updates of Draft Rule (Taking comments until 9/26/22)

- Trigger temperature of rule lowered to 80 degrees (52 degree for non-breathable clothing)
- Additional requirements for the acclimatization of workers
- Provide shade access to all workers
- Provide suitably cool water to drink
- Preventative cool down rest periods
- Increased break periods for 90 degrees and greater
 - 90 degrees (10 min every two hours)
 - 100 degrees (15 min every hour)

Closing Discussion



- Future Agenda Items



Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE



Employment Security Department
WASHINGTON STATE

Next ASWS Advisory Committee Meeting

Thursday, October 20, 2022

8:30 a.m. – 11:30 a.m.

Contact information

Dan Zeitlin, Director of Employment System Policy & Integrity Division DZeitlin@ESD.WA.GOV

Employment Security Department • Policy, Data, Performance and Integrity