

Chair Bowman, for the record, my name is Jenny Dresler, and I'm here on behalf of the Oregon Farm Bureau Federation. Oregon Farm Bureau is the state's largest general agricultural association, representing over 6500 member families and 220 different commodities.

Farm Bureau supports the reforms outlined in House Bill 2692. Oregon OSHA's recently adopted rules that govern farm labor housing highlight the need for a process that balances the reality of impacts to small businesses with regulatory action.

Farm Bureau supports Section 2, subsection (2)(b)(C), which requires: *“(C) A statement of the need for the rule [and a], **a detailed description of the problem the agency is attempting to solve with the rule and a detailed statement of how the rule is intended to meet the need and solve the problem;**”*

Had the agency established a clear problem at the outset of the farm labor housing rulemaking 6 years ago, they would have found stakeholders willing to engage in a productive dialogue around solutions.

Instead of centering the conversation with a statement of the problem the agency would solve, OR-OSHA asked stakeholders to put forward their amendment requests for consideration. Advocates produced roughly 50 new proposals for regulation, and farm employers put forward a few as well. Over the next few years, farm families were asked to respond to the advocates' requests, often multiple times, with very little guidance from the agency. Throughout the process...

- Growers asked the agency to establish a framework or list of the specific amendments the agency was considering but received nothing concrete until 2024.
- Growers asked OR-OSHA if proposed amendments would apply prospectively-- to new construction or major remodels-- or if amendments would apply to existing construction. The agency did not answer that question until the draft rules were released in 2024.
- Growers repeatedly asked what specific problems they were trying to address with existing housing, as OR-OSHA's authority is specifically tied to ensuring workplace health and safety. The agency's final rule, released last month, fails to provide a nexus between many of the provisions and worker health and safety.

Imagine participating in this process as a small business. Farm Bureau members were at a loss at the thought of losing their livelihood. Facing economic ruin, many of our members were desperate to understand what and why the agency was proposing such substantial infrastructure changes to their worker housing. Much of the anxiety that stakeholders

experienced could have been addressed by the agency defining the specific problem they wanted to address at the outset of the rulemaking process and creating a framework for engagement.

We believe this provision would facilitate more transparent public engagement and trust with the regulated community.

Farm Bureau also supports Subsection (E) in this same section, which provides new requirements for the small business economic impact analysis, including an analysis of opportunity costs. In Oregon, 96% of farms and ranches are held within a family, and for these small businesses, navigating complex rules or fiscal analysis can be extremely difficult.

OR-OSHA's recent rulemaking to update ag labor housing made numerous changes, far beyond the U.S. Dept. of Labor's updates to its housing rules in 2022. Direct costs of compliance with the rule were considered by OR-OSHA in the fiscal impact statement, but the opportunity costs were not considered.

During the fiscal impact process, farm families shared that they would not be able to replace 25-50% of their workforce housing within two years, which was the likely outcome at the time the draft rules were being considered. Not only was it unlikely that engineering and permitting could be completed on that timeframe, but after years of poor yields, unpredictably weather, and upside-down markets, farm families shared that they did not have the capital, nor the capacity to apply for a loan to replace housing that OR-OSHA made obsolete with its January 8<sup>th</sup>- adopted rule.

That is when orchardists who participated in the rulemaking attempted to introduce the concept of opportunity loss. Either they would hire and house 25-50% fewer workers, or they would be forced to take out acres of orchards and lose yield and farm income.

According to regulators, opportunity costs were not something that could be considered during the process, only direct costs. Thus, the fiscal impact statement largely reflected the costs of new construction, but not what the regulated community could realistically afford. The anticipated reduction in free or low-cost worker housing also was not considered as part of the process.

Finally, I want to highlight section 17, which requires: ***“If the statement of fiscal impact required under subsection (2)(b)(E) of this section indicates that the proposed adoption, amendment or repeal may have an economic impact of more than \$250,000 on any individual or more than \$5 million on the public in total, the agency shall submit a report in the manner described in ORS 192.245 to the Joint Committee on Ways and Means.”***

After the public comment period on the ag labor housing rules closed, OFB staff reviewed the 770 pages of written public comments to understand the financial impact of the rule on a farm-by-farm basis.

Twenty farms submitted the anticipated compliance costs associated with above-ground construction (this did not include septic, architecture, permitting, etc.). Those costs ranged from \$130,000 to \$6.4 million to replace or retrofit farmworker housing. Though most operations anticipated a cost of compliance between \$400,000 to \$1.5 million with an average cost of just over \$1 million per operation.

There are just over 500 registered employers who provide farm labor housing that is registered with OR-OSHA. For our community, that is not a reasonable economic impact to spread over 500 or fewer stakeholders.

The process described in section 17 would give the legislature the opportunity to review and determine whether it is appropriate to adopt rules with an anticipated compliance cost for small businesses that easily exceeds 100 million, particularly when an agency has failed to establish the problem they are “solving”.

OFB thanks you for your time and requests your support of HB 2692.