



## **Senate Committee on Labor & Business**

**April 3, 2025**

### **Oregon Farm Bureau Supports SB 999 with -1 Amendment**

Oregon Farm Bureau (OFB) is the state's largest general agriculture organization, proudly representing over 6500 family farms and ranches that produce more than 220 agricultural commodities. From hops and hazelnuts to sheep, blueberries, and timber with operations spanning from just a few acres to thousands, our members utilize all farming methods including organic, conventional, regenerative, biotech, and even no-tech.

OFB requests your support of the -1 amendment to SB 999, which will allow farmers and ranchers to continue to provide single-family housing to workers.

#### **Affordable workforce housing is critical to Oregon's agricultural economy.**

For farm workers, it can be challenging to find quality, affordable housing in rural areas of the state. In 1973, Oregon's land use planning program was established in SB 100, including statewide goals that protect agricultural lands from development. Oregon's exclusive farm use (EFU) zoning limits development that could conflict with farm practices in order to protect the resources, agricultural environment, and infrastructure needed for farmers and ranchers to produce food and fiber. Residential areas are not often sited near EFU, which may limit workforce housing options in more rural areas of the state.

Family farms and ranches have stepped in to address this gap, as doing nothing would significantly impact Oregon's farming industry and workers. Over the last 50 years, some producers have built temporary farmworker housing to provide shelter for workers who travel to Oregon and work on a temporary, seasonal basis; this includes employers who use the H-2A program. These farmworker camps are defined in ORS 658.705 and are required to be registered with OR-OSHA. Today, there are over 400 registered farmworker camps that provide safe housing to approximately 10,000 workers. Temporary ag labor housing for workers has historically been free (an estimated 83 percent of the time).<sup>1</sup>

Other farms or ranches may offer single-family rental homes, often at below market rates, to workers and their families. This is common practice across Oregon. Many family farms grew by acquiring parcels of land for production, often in a patchwork, and many of those parcels included a single-family home at the time they were purchased. Farm families

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<sup>1</sup> <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/CommitteeMeetingDocument/264090>

often do not need an additional house, and many are able to offer these homes to workers, such as the foreman, at a lower cost or no cost. This is a very common practice and ensures that housing needs in proximity to work are addressed.

A third option for affordable housing is community-based housing, though it is not readily available for workers in many areas of the state. In areas where investments have been made, nonprofit organizations build and offer agricultural labor housing to farm workers at a lower rental rate. This housing is often utilized by workers who reside in Oregon year-round.

Even with these housing options, affordable workforce housing remains a significant challenge in farm country.

### **Extension of OR-OSHA authority to private homes threatens existing housing availability.**

OFB is concerned that farmers and ranchers could be penalized for offering single-family rental homes to workers under a recent DOJ opinion and application of OR-OSHA's OAR 437-004-1120.

On January 8, 2025, OR-OSHA adopted among the most extensive and costly farmworker camp regulations in the country and applied those regulations to **registered farmworker camps** and all other workforce housing, including **single-family rental homes**, that are leased or offered to employees.<sup>2</sup>

#### **437-004-1120**

##### ***Agricultural Labor Housing and Related Facilities***

###### ***(1) Application.***

***(a) These rules apply to any place, or area of land, where there are living areas, manufactured or prefabricated homes or dwellings or other housing provided by a farmer, farm labor contractor, agricultural employer or other person in connection with the recruitment or employment of workers on an agricultural establishment.***

***(b) These rules apply to any type of labor housing and related facilities together with the tract of land, established, or to be established, operated or maintained for housing workers with or without families whether or not rent is paid or collected.***

***(c) Manufactured dwellings and homes must comply with specifications for construction of sleeping places, unless they comply with ORS 446.155 to 446.185 and OAR 918-500-0510 that have the requirements and specifications for sanitation and safety design for manufactured dwellings.***

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<sup>2</sup> <https://osha.oregon.gov/OSHARules/adopted/2025/ao1-2025-notice-alh-comprehensive.pdf>

***(d) These rules apply to housing given to, rented, leased to or otherwise provided to employees for use while employed and provided or allowed either by the employer, a representative of the employer or a housing operator.***

***(e) These rules, unless otherwise stated, apply to all occupants of the labor housing and facilities.***

***(f) These rules apply to all labor housing sites owned, operated, or allowed to operate on property under the jurisdiction of any state or municipal authority.***

***(g) Violations relating to the occupants' personal housekeeping practices in facilities that are not common use will not result in citations to the employer.***

The application of OR-OSHA's ag labor housing (ALH) regulations to workers' private homes is not only outside of the scope of federal OSHA's regulatory authority but is also misaligned with Oregon statute.<sup>3</sup> "Farmworker camps" are defined in ORS 658.705(7) to **exclude hotels or motels and single-family homes** that house members or the same family or five or fewer unrelated individuals.<sup>4</sup>

In February, legislative counsel determined that in applying the ALH rules to single-family homes, **OR-OSHA had exceeded its statutory authority under ORS 658.705.**<sup>5</sup> However, DOJ issued a conflicting opinion last month, arguing that since "labor camp" is not defined in the Oregon Safe Employment Act (OSEA) or limited in size, OR-OSHA can enforce its ALH rules in single-family homes that are leased to workers and their families.<sup>6</sup>

It is noteworthy that the 1989 legal opinion that DOJ relied on for its recent opinion *predates* legislation, SB 732 (1989), that subsequently defined "farmworker camp" and exempted single-family homes from the definition. In 1989, Oregon had a large stock of agricultural worker housing that the legislature found did not meet minimum health and safety standards.<sup>7</sup> The 1989 legislature took up the issue and ultimately adopted ORS 658.705 to define farmworker camps that would be subject to registration and enforcement by OR-OSHA and created a tax credit to support the rehabilitation of much of that housing to meet appropriate standards. That session ended in early July, a month after the 1989 AG memo was issued.

The regulation of private homes occupied by farmworkers who are employed year-round is also not contemplated by the U.S. Department of Labor (USDOL). Chapter 12 of the Field Operations Manual provides a regulatory framework for "temporary labor camps." And Federal OSHA's temporary labor camp regulations in CFR 1910.142 apply to housing provided to *employees who enter into an employment relationship for a discrete or defined time period...referring to the length of employment, and not to the physical structures*

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<sup>3</sup> <https://www.osha.gov/fom/chapter-12>

<sup>4</sup> [https://oregon.public.law/statutes/ors\\_658.705](https://oregon.public.law/statutes/ors_658.705)

<sup>5</sup> <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/PublicTestimonyDocument/171914>

<sup>6</sup> <https://osha.oregon.gov/news/Documents/DOJ-Advice-Memo-to-DCBS-ALH-rulemaking-authority.pdf>

<sup>7</sup> [https://oregon.public.law/statutes/ors\\_197.680](https://oregon.public.law/statutes/ors_197.680)

*housing employees.*<sup>8</sup> USDOL further defines temporary labor camp as *required* employer-provided housing that, due to company policy or practice, necessarily renders such housing a term or condition of employment.

### **Regulating single-family homes as worksites is not a reasonable application of statute.**

By treating workers' private homes as worksites, OR-OSHA creates significant liability for employers who are voluntarily providing safe and affordable housing. Without statutory clarification, employers will be required to manage these private homes round-the-clock, as they would a farm with occupational hazards, to avoid penalties. This is not a reasonable application of the OSEA (ORS 654.003(3)), and it is not a risk that many employers are willing to take. Margins are down or nonexistent across most commodities, and producers cannot risk enforcement or penalties levied by OR-OSHA. The unfortunate consequence is that many employers will stop offering this benefit to workers, who will then need to find alternate housing.

To give the Committee a sense of the regulations that OR-OSHA has applied apply to workers' private homes, OR-OSHA's recently adopted rules require employers to provide 15 square feet of storage (i.e. bookcase) and locking storage, a specific number of outlets (exceeding residential building code), ensure separate wash cycles for work clothes, 4 inch minimum mattress thickness and disposable mattress covers, specific square feet per person in a bedroom, signage on the site, food storage, room cooling requirements (A/C), disease reporting, etc. There is no way for employers to ensure that single family homes comply with these regulations unless they manage the housing 24/7. That would constitute a significant intrusion into workers' personal lives.

### **DOJ's interpretation jeopardizes existing workforce housing.**

Housing on or near the farm can provide a valuable benefit for employees. Many farms are in rural areas where housing options can be scarce. Allowing an employee to rent a house located on the farm or ranch helps reduce the burden for finding housing, avoids longer commutes and can provide a housing option that is lower cost than rental units in the community. In talking to our members, it is common practice to offer family housing to a foreman or ranch hand.

Workers are not required to live in single family homes on the farm (which is one of the conditions of the USDOL temporary labor camp standard), but there are many benefits to workers, including being able to forgo rent or utility payments and save for a future home purchase. And these homes are often rented or offered to permanent employees, as opposed to farmworker camps that are typically provided to seasonal workers on a temporary basis and registered with OR-OSHA.

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<sup>8</sup> <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.142>

Agricultural employers want to continue to support their employees by offering them lower cost housing, but many will be unable to continue doing so if OR-OSHA retains the ability to enforce its ALH rules in single-family homes that are exempt from the “farmworker camp” statute. Many Oregon farms are on a one- to three-year survival plan, and there are very few that have certainty going into the next five to ten years. Recent USDA data reveals that labor costs for Oregon farms are, on average, 70% higher on average than the rest of the U.S. Oregon farms have struggled with unpredictable markets, low yields, and natural disasters, and 69% of family farms and ranches in Oregon saw a net cash loss in 2022. Net cash income per farm was an average of 67% lower for Oregon farms compared to the U.S. Family farms want to be able to continue to provide the benefit of housing to workers but many cannot accept the risk of potential fines or legal claims for failing to comply with OR-OSHA’s ALH rules.

### **Statutory clarity is needed to address inconsistencies in statute.**

The DOJ memo to OR-OSHA highlighted inconsistent terminology used in statute to describe farmworker camps. Inconsistent terminology not unique to the OSEA and “farmworker camp” registration statute but is unfortunately common in Oregon law related to this issue.

Under the OSEA, “place of employment” in ORS 654.005 includes **“labor camp.”** However, also within the OSEA is ORS 654.071(7), which references the **“operator of a farm labor camp”** in discussing notice and citations that could result from inspection. Several other statutes point back to OSEA with respect to some version of these camps, except that they do not refer to them consistently. ORS 475C.353 (5)(b) and (6)(b) reference **“agricultural labor housing”** with respect to the issuance of a citation under ORS 654.071 for a violation of safety and health standards under the OSEA. With the exception of **“farmworker camp”** in ORS 658.705, it does not appear that these terms are defined further in statute.

Additionally, ORS 307.480 to 307.510 governs property tax exemptions for certain “eligible farm labor camps” and “eligible agricultural workforce housing.” ORS 307.480 (4)(b) refers to **“eligible farm labor camps”** that comply with “safety and health standards for agricultural labor housing and related facilities adopted under the Oregon Safe Employment Act.” Subsection (5) of that statute provides a definition for **“farm labor camp,”** which is somewhat similar to housing that constitutes a “farmworker camp” under ORS 658.705, and ORS 307.505 provides that “the appropriate authority under the [OSEA] shall cause an inspection to be made of **‘any farm labor camp’** that has filed an exemption at any time prior to August 15.”

It is unlikely that each of these statutes refers to a different type of camp. They generally seem to address temporary farmworker camps that are provided as a condition of employment to a seasonal workforce.

**The -1 amendment clarifies what constitutes a “labor camp” under the Oregon Safe Employment Act.**

The -1 amendment to SB 999 provides clarity that OR-OSHA’s authority to enforce ALH rules applies to registered farmworker camps defined in ORS 658.705 and not to single-family homes that are exempt under ORS 658.705(7). This will align OR-OSHA’s enforcement authority with the agency’s farmworker camp definition and help to clarify some discrepancies in Oregon statute. This amendment will also bring OR-OSHA’s enforcement authority closer in line with USDOL regulations that ensure the health and safety of workers who live in temporary labor camps.

SB 999 with the -1 amendment provides regulatory certainty to family farms and ranches that they can continue to offer single-family housing without the risk of OR-OSHA penalties. There is a shortage of affordable housing for all Oregonians, and this is particularly true for farm workers. Our members respectfully request clarification that the definition of “labor camps” under the OSEA does not include single-family homes offered to workers and their families.

**Please vote yes on SB 999 with the -1 amendment.**