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Washington State Department of Health (DOH), Nina Helpling, [tempworkerrule@doh.wa.gov](mailto:tempworkerrule@doh.wa.gov)  
Olympia, WA 98504

RE: Comments on draft rules for Temporary Worker Housing

To whom it may concern:

Thank you for the opportunity to comment on these draft rules regarding the Temporary Worker Housing (TWH) standards.

Wafila is a non-profit 501(c)(6) membership organization comprised of nearly 800 agricultural and seasonal employers. We offer ways for our members to access several federal visa programs and receive assistance complying with state and federal labor standards. For the sake of employers, employees, and consumers, we advocate for labor stability to be a reality for all agricultural employers and for farmers and farmworkers to be treated with dignity and respect.

In 2021, wafila filed H-2A applications for more than 200 member employers who collectively employed more than 16,000 individual H-2A workers. In addition, wafila employer members employed more than 20,000 domestic workers. These workers, especially the guest workers, need housing, and wafila helps provide housing solutions for our member farmers and their employees.

Our comments for each section are below. Since the rule drafts are substantially similar between L&I and DOH, we will comment on them simultaneously. For each reference to the WACs, we will cite the L&I draft first, followed by the DOH version.

**WAC 246-358-076/WAC 296-307-16146 Ventilation**

We have concerns with the requirement of using MERV 13 air filters or the highest MERV rating filter supported by the mechanical ventilation system. This stringent requirement might have been justified under the COVID-era emergency rules due to pandemic risks. Now that the COVID era is officially over, adopting this pandemic standard into permanent rules will be expensive and unnecessary. MERV 13 air filters are expensive, hospital-grade filters, and perpetual use of them will be costly.

We believe the TWH standards should simply allow for whatever air filter the ventilation system manufacturer recommends. If a COVID-like outbreak occurs again, use of MERV 13 air filters could be considered at that time for that declared emergency. But for everyday use outside of an outbreak, manufacturer recommendations should suffice for the health and financial interests of the TWH owners, operators, and workers.

## **WAC 246-358-175/WAC 296-307-16190 Disease prevention and control**

The additions to this section present some general and specific issues. Generally, we believe this section is not necessary, with a few exceptions for serious outbreaks of large numbers of occupants. The standards place TWH operators, which may include hotels, in a position of medical professional performing triage. Also, TWH operators can issue rules around communicable diseases, but they cannot necessarily control or make decisions for occupants. The language in this section should reflect that reality. Operators should be required to provide information on where occupants can receive health care services and how to address certain symptoms related to serious and easily transmitted diseases, but these rules should recognize that the responsibility ultimately rests with the individual adults occupying the facility.

On a more specific note, subsection (2) states, “Report immediately to the local health jurisdiction....” The requirement to report “immediately” may not be feasible in all cases. We recommend using language that is more realistic, such as “as soon as reasonably practicable” or something similar. The same change needs to be made in (7)(c).

Subsection (2)(e) sets the bar for symptoms relatively low. Specifically, if “two or more occupants” have diarrhea or vomit, the operator must report to the local health jurisdiction. Under this standard, if two occupants have too much alcohol to drink and vomit, the TWH operator is in a reportable condition. Reportable situations should occur when a larger number of occupants experience the same issues or when a specifically identifiable threat such as COVID is present. The bar of two occupants with symptoms is too low and is thus unmanageable.

Subsection (3) states, “Implement infection control measures for care of occupants who have been exposed to other occupants with a suspected or positive case of a communicable disease.” TWH operators are not healthcare professionals. Operators should only be responsible for establishing expectations (i.e., rules) of the occupants’ behavior when it comes to communicable disease and for providing information such as what is listed in subsection (4). Subsections (2) and (3) would apply if as few as two occupants displayed symptoms of the common cold, such as a runny nose. As drafted, these standards are overly broad, excessive, inefficient, and possibly expensive. We suggest that L&I and DOH rewrite these standards so that they apply only to widespread outbreaks of communicable diseases that are declared as statewide or national emergencies, not isolated pockets of common ailments.

Subsection (5) allows “community health workers and community-based outreach workers to provide additional information to occupants.” This section of the proposed rules is not contingent on the investigation into a communicable disease. The language allows carte blanche authority for “community health workers” and “community-based outreach workers” to access TWH at their own discretion and without any nexus to public health or a disease outbreak. This grant of authority under these rules is an overreach and should be deleted from these rules.

If a nexus to public health exists, we understand the allowance for “community health workers” to visit TWH occupants. However, there no justifiable reason for “community-based outreach workers” (i.e., legal aid representatives, union representatives, and advocacy organizations) to visit with occupants whenever those representatives choose. Access by community-based outreach workers under this proposed section does absolutely nothing to prevent or control disease. In fact, it does the opposite because it reduces existing prevention and control measures by introducing additional parties into the housing environment. If visits by community-based outreach workers are for sharing public health information, that information can easily be communicated by the TWH operator and by community

health workers. We object to the inclusion of “community-based outreach workers” in this section of these rules and, by extension, the definitions section (WAC 296-358-010/WAC 296-307-16103). We ask for the definition of and allowance for community-based outreach workers be removed from these proposed rules.

If you have questions or need clarification about these comments, feel free to contact me.

Thank you for considering our perspective and comments on this rule proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Enrique Gastelum".

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