



**Attachment B to CR-103**  
**Concise Explanatory Statement Table**  
**Rules: Chapters 246-358, 246-359, and 246-361 WAC**

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Effective date	246-358 General 246-359 General	Set effective date at least to after the 2015 growing 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><i>Was the rule changed as a result of these comments?</i> No</p>
	246-358 General 246-359 General	Give 24 months for growers showing good faith effort in completing a percent or amount of changes each year – e.g., for items that require new electrical and other upgrades, construction, equipment, or materials to buy.	
	246-358 General 246-359 General	Everything exceeding federal rules needs to be grandfathered or a variance.	
	246-358 General 246-359 General	Grandfather structures built prior to this law’s effective date.	
	246-358 General 246-359 General	Set effective date to early Spring 2015. Use variance process for those that cannot meet that date.	
Purpose	246-358-001	Add language to 001 Purpose and applicability, to recognize the legislature’s intent “to encourage the development of temporary and permanent housing for workers that is safe and sanitary.”	<p>This section refers the reader to chapter 70.114A RCW which includes the legislature’s intent. The department believes that it is unnecessary to repeat legislative intent of the TWH laws in the WACs.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	246-359-001(1)	Include RCW 70.114A.081(1)(a) language in the purpose section of the TWH construction standard .	

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Definitions	246-358-010	Redefine TWH so it does not 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 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 246-358-093(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 the Definitions WAC 246-358-010 or WAC 246-359-010.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	246-358-010	Define bedroom.	
	246-358-010	Add definitions of the different types of inspections.	
	246-358-010 246-359-010	Include in dwelling unit definition that toilet facilities are physically separated from sleeping areas and common areas.	
Water testing	246-358-025 (2)(d)	In addition to preoccupancy water tests, test & pass drinking water tests during season - ensure that the water is still safe to use for drinking, cooking, bathing, and laundry purposes.	<p>TWH operators who have an on-site Group B water system must test their water annually for fecal coliform and nitrates. Facilities that have water samples indicating higher coliform or nitrate than allowed must re-test multiple times until the water sample reaches acceptable levels. The department believes it unnecessary to increase testing for water systems at TWH facilities if there has been no history of problems.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
Licensing	246-358-025 (5)(b) 246-358-990 (4)(b)	Change the license application due date from February 28 each year to April 30.	<p>The February 28 due date is for license renewals for existing TWH licensees only. This date was determined to have the least impact on growing seasons and TWH occupancy periods based on stakeholder input. New TWH license applicants must submit an application at least 45 days before the operator plans to begin housing farmworkers.</p> <p>The new enforcement language gives the department the ability to verify non-compliance correction when needed, up to and including on-site verification if needed.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
	246-358-025 or 246-358-028	DOH should verify correction before licensing. Add language that a provisional license will be issued at this stage, effective for a limited time, conversion of which into regular license is dependent upon documented correction of deficiencies.	

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Inspections	246-358-025(9)	Change “occupancy” to “post-occupancy”	<p>A TWH occupancy inspection is conducted when occupants are present and the units are in use. “Post-occupancy” could be misunderstood as after the TWH facility has ceased operation for the year.</p> <p>The rules do not restrict the number of times the department may inspect a TWH facility.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
	246-358-025(9)	Keep and increase requirement for post-occupancy inspections – Post-occupancy inspections are necessary to allow inspectors to observe TWH while in use. Many deficiencies are not noted until during occupancy. Must be mandatory to see what conditions exist only when occupants are present.	
Tent use	246-358-025 (10)(b)	Limit the use of tents – Tents should be occupied no more than three weeks per year per TWH site.	<p>Limiting tent use to three weeks per year would not be consistent with their use at cherry farms where harvesting seasons are longer. The rule is clear that tents may only be used in cherry harvest camps during the cherry harvest season.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
Worker supplied housing	246-358-029(2)	Operators should not be responsible for worker supplied housing.	<p>The purpose of this 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><i>Was the rule changed as a result of these comments? No</i></p>
Enforcement	246-358-028 (3)(a),(4)	In 358-028 (3)(a) and (4) stating that the operator provide a statement that s/he “will” correct a deficiency identified by the department is inadequate. Require operators send documentation of the correction of deficiencies attached to the corrective action plan, including a statement that she or he “has” corrected the deficiency, and submit proof of correction - Photos of the correction, receipts of materials or services used to correct the deficiency should be submitted with the statement.	<p>In 246-358-028 the operator’s signature on the attestation of correction form provides assurance that the operator acknowledges the deficiency and agrees to correct it. The department may require whatever proof of correction is appropriate, up to and including on-site verification by a department inspector if needed.</p> <p>WAC 246-358-028(6) allows the department to obtain more definitive proof of a correction when needed to verify compliance.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
	246-358-028(6)	358-028 (6) should be changed to eliminate the qualifier “upon request of the department of health” with respect to the requirement that the operator show proof that she or he has corrected each deficiency identified by DOH. In all cases, the operator should show proof that each deficiency has been corrected.	

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Enforcement (cont.)	246-358-028(7)	358-028 (7) should state that if the operator fails to correct a deficiency identified by the department the department will proceed with legal action, including the imposition of civil penalties, unless the deficiency is de minimum in nature. Change 'and' in (7) to 'or' to be consistent.	The department believes that the use of "and" in WAC 246-358-028(7) is correct.
	246-358-028(7)	Fine violators who allow violation of the standards to occur that present a risk to occupant health or safety. There must be a process for following up with providers who fail to send timely corrective action plans.	The rule clarifies the department's authority to enforce the rules, including authority to imposed civil fines, modify, suspend, and/or revoke the license of violators when appropriate.
	246-358-028(9)	Language in the Enforcement section, in subsection (9) seems overly broad. The Enforcement section and 0280 should also ensure respect of private property rights.	The department believes that 246-358-028(9) is worded to respect private property rights.
	General	For unlicensed TWH, follow-up the following year to determine whether the operator has applied for a license or continues to operate TWH unlicensed.	The department takes non-compliance and unlicensed operation seriously. The department rewards consistent compliance via the self-survey program.
		Have inspectors routinely go to the specific units that had violations in the previous inspection to verify for compliance and confirm correction.	The department may re-inspect a TWH facility that had violations in any previous inspection. The rules do not restrict the number of times the department may inspect a TWH.
		Refer unlicensed housing or licensed housing resisting compliance cooperation to L&I.	The department coordinates with the Department of Labor and Industries (L&I) on unlicensed TWH. However, enforcing laws and rules for unlicensed TWH is with the department's authority and jurisdiction, and not within L&I authority.
Keep DOH focus on inferior housing out there and enforce existing laws.		The purpose of the rules is to assure that all TWH continue to meet safety and health standards. The proposed rules increase incentives for TWH operators to achieve full compliance and qualify for the "self-survey program." Such operators would have most licensing fees waived for at least two years and be exempt from pre-licensing and occupancy inspections.	
The department should track deficiencies cited and corrective actions taken in a database.	The department believes that tracking deficiencies cited and corrective actions taken is administrative policy and does not need to be the rule.  <i>Was the rule changed as a result of these comments? No</i>		
Variance	246-358-040	Require the department to conduct a post-occupancy inspection to ensure that the variance results in equal protection for occupants.	The department monitors approved variances during the next inspection which is during TWH occupancy (during the period when farmworkers occupy the housing). A post-occupancy inspection would be after a TWH facility has been vacated for the season and would be unnecessary.  <i>Was the rule changed as a result of these comments? No</i>

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Camp Management Plan	358-050(1)(a)(iii)	Don't require increased plan requirements with training and translation as this is expensive and difficult.	<p>WAC 246-358-050(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><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>As a result of comments on this section and proposed WAC 246-358-145, the department is revising WAC 246-358-050 to 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 246-358-145 that operators must provide a means of communication for contacting emergency services. The department is requiring that operators include information on when carbon monoxide alarms are required.</i></p>
	358-050(2)(b)	Posting the camp management plan in workers' native language is reasonable. Plan for emergencies and communicate that plan to the occupants.	
Water Pressure	246-358-055(2)	Provide adequate water pressure.	<p>The department believes that 20 psi is sufficient and may be the maximum possible in existing facilities without replacing equipment or plumbing. Thirty psi is the minimum required by department drinking water rules and is appropriate for new construction.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
	246-358-055(2) 246-359-560(5)	Water pressure should be changed to 25 psi in chapter 246-359 WAC and the same as in WAC 246-358-055.	
Handwash / Water Temp	246-358-055(5)	Don't require hot water for hand washing – it does not support expanding location of the sinks, difficult to plumb hot water to standalone stations away from toilet facilities.	<p>Further research indicates that the use of cool water, soap, and friction (rubbing hands together) is sufficient to remove germs during hand washing.</p> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-055(5) was revised to remove the requirement that hot water be supplied to all hand washing sinks.</i></p>

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Water Temp	246-358-055(6)	<p>Keep hot water at 110 to 120 degrees; 100 degrees is insufficient.</p> <p>Keep hot water at 130 degrees.</p>	<p>Water temperatures between 100 to 120 degrees are the standard for dwellings and facilities and are sufficient for cleaning. The Centers for Disease Control and Prevention 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><i>Was the rule changed as a result of these comments?</i> No</p>
Tent lighting	246-358-070(7)	Change WAC 246-358-070(7) to point to 246-358-077 (not 175).	<p>The department agrees with this comment.</p> <p><i>Was the rule changed as a result of these comments?</i> Yes</p> <p><i>This reference is corrected in WAC 246-358-070.</i></p>
Door locks	246-358-075 (4), (5), (6) 246-359-510	Do not require locks on exterior, bedroom, bathroom, toilet, or shower stalls. Difficult to manage, grower needs to inspect rooms whenever, locks do not guarantee security.	<p>The department believes safety and security of occupants is paramount. Many TWH operators already provide locks on doors. The department requires locks on: exterior doors in family shelters; bedroom doors housing more than 15 occupants; bathroom doors; and toilet and shower doors. The implementation date is January 1, 2016.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p> <p><i>WAC 246-358-075 and 246-359-510 were revised to clarify a lock is required on exterior door of family shelters and bedroom doors in family shelters.</i></p>
	246-358-075 (4), (5), (6) 246-359-510	We support requiring locks on exterior, bedroom, bathroom doors and stalls if doors are provided.	
Lead-based paint	246-358-075(9) 246-359-530(6)	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)).	<p>WAC 246-358-075(9) and WAC 246-359-530(6) prohibit the use of lead-based paint on any part of the TWH. TWH operators must comply with all applicable state and federal laws and rules for lead-based paint.</p> <p><i>Was the rule changed as a result of these comments?</i> Yes</p> <p><i>WAC 246-358-075(9) and WAC 246-359-530(6) refer the operator to applicable state and federal requirements for questions regarding lead based paint.</i></p>
	246-358-075(9)	Make rule clearer. Should allow TWH built in 1978 as TWH and provide a packet on lead based paint.	
	246-358-075(9) 246-359-530(6)	Agree with disallowing use of lead-based paint.	

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Ventilation	246-358-075(11), 246-358-093 (4)(c)(ii)	Include bathing facilities' ventilation requirements. Require bathing facilities have adequate ventilation in accordance with industry standards.	<p>Proper ventilation, natural or mechanical, needed to prevent mold, is required by WAC 246-358-075(11). WAC 246-358-093(4)(c) and 29 CFR 1910.142 require adequate ventilation of toilet facilities by either a screened, open-able six square foot window or adequate ventilation. The CFR does not specify mechanical ventilation of toilet rooms. The department monitors ventilation on inspection.</p> <p>Prevention of mold and mildew are addressed in WAC 246-075(2), (3) and the requirement to keep bathing facilities in a clean and sanitary condition are in WAC 246-358-095(3)(f).</p> <p>Ventilation is required in all habitable rooms including cooking facilities by 29 CFR 1910.142 and TWH operations WAC 246-358-075(9). Existing WAC 246-359-565(2)(b) requires mechanical ventilation in common cooking facilities, and proper ventilation according to industry standards in food-handling facilities.</p> <p>WAC 246-359-500 was not included in this proposal. While the department agrees with this comment, revising this section would require opening a new rulemaking proceeding. This section will be amended the next time the TWH rules are revised.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
	246-358-075(11)	Provide proper ventilation to keep air fresh and prevent mold.	
	246-358-075(2),(3),(11)  246-358-125(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	
	246-359-565(2)(b)	Don't require mechanical ventilation.	
	246-358-125(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 ensures a regular supply of fresh air.	
	246-358-093(4)	Incorporate the construction requirements of WAC 246-358-093 into WAC 246-359-500. Specifically, provide screened windows for ventilation in toilet facilities.	
Emergency escape	246-358-075(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 regulation, 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><i>Was the rule changed as a result of these comments? No</i></p>

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Square feet per occupant sleeping areas	246-358-075 (12), (13) 246-359-565	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 the department 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 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><i>Was the rule changed as a result of these comments? Yes.</i></p> <p><i>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 to January 1, 2019 giving 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. New TWH licensees and current licensees who build new family shelter units after WAC 246-359-565 becomes effective must comply with the 100 square foot requirement if sleeping and cooking areas are located in the same space.</i></p>
	246-358-075 (12), (13)	Need grandfather clause for time to build. There is no evidence of problem with 50 square feet, this may reduce beds for many small growers.	
	246- 358-075 (12), (13)	Reword rule so it explains that curtains are allowed as a separator for kitchen and sleeping area.	
	246- 358-075 (12), (13)	A partition to divide the kitchen and sleeping area would block light – do not require a partition.	
	246-358-075 (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.’	
	246-358-075 (12), (13)	Stay with 50 square feet per occupant ratio rather than the 100 square feet.	
	246-358-075(12), (13)	Increase to 165 square feet per person. Consider what is overcrowding? HUD says less than 165 square feet per person is overcrowding.	
Screen doors	246-358-075(14)	Do not require screen doors when screens and AC are provided.	<p>Screens on all exterior openings (including screen doors) are required by 29 CFR 1910.142.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Heating / Temperature	246-358-075(18), (19)	Remove “during cold weather” from WAC 246-358-075(16) – unnecessary and invites interpretation.	<p>The current rules require “adequate” heating equipment if habitable rooms are used during cold weather. OSHA’s rule requires that all service buildings be able to maintain a temperature of 70 deg. F. during cold weather. Under WAC 51-50-1204, all interior spaces for building in Washington that fall under the Washington State Building Code must be capable of maintaining a minimum temperature of 68 deg. F. Defining “adequate” heating as capable of maintaining a temperature of least of 70 deg. F. is consistent with OSHA’s rule and the Washington State Building Code.</p> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-075(18) is revised to require heating equipment capable of maintaining 70 degrees F. in habitable rooms during cold weather. WAC 246-359-080 is revised to require heating capable of maintaining 70 defrees F. in all habitable rooms.</i></p>
	246-358-075 246-359-570	If space heaters are provided, require automatic-shutoff safety feature if overturned.	
	246-358-075(18), (19)	Keep “provide adequate heat inside dwelling unit” not 70 F.	
	246-358-075(18), (19)	Clarify 70 F requirement, confusing, easy to misinterpret.	
	246-358-075(18), (19) 246-359-580(1)	Provide a safe temperature range for occupants of between 70 – 80 degrees F	
	246-358-075(18), (19) 246-359-580(1)	Do not require minimum 70 degree temperature during cold weather. It is in excess of the federal rule – adds costs.	
	246-358-075(18), (19) 246-359-580(4)	Provide a means to prevent inside dwelling temperatures from exceeding 80 degrees – heat related illnesses need cooler recovery times, heat reduces sleep and quality sleep, which increases work injury risk, anxiety, depression, and pain.	
	246-359-580 (1), (2)	WAC 246-359-580(2) should match 246-358-075(18) be able to maintain a minimum temperature of 70 degrees F.	

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Carbon monoxide alarms, smoke detectors, fire extinguishers	246-358-080(1) 246-359-550(6)	Do not require carbon monoxide alarms at all. Do not require carbon monoxide alarms in all facilities. Only require them in units using fuel burning equipment.	WAC 246-358-080(1) in the proposed rule requires a carbon monoxide detector in all dwelling units with a sleeping area. WAC 246-359-550(6) requires a carbon monoxide detector in all dwelling units in the vicinity of sleeping areas. The department has determined that providing carbon monoxide (CO) detectors in TWH is an important health and safety requirement. CO is a colorless, odorless gas produced by burning propane, oils, charcoal, wood, and similar fuels that can cause injury or death from asphyxia.  <i>Was the rule changed as a result of these comments? No</i>
Carbon monoxide alarms, smoke detectors, fire extinguishers (cont.)	246-358-080(3)	Clarify whether fire extinguisher ratio would be one per cooking facility, one per unit, one per family shelter.  Don't require fire extinguishers at all.  Require a minimum of two fire extinguishers, installed in accordance to local ordinances.  Require fire extinguishers.	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. But when the only path to an exit is blocked by fire, a fire extinguisher can be an essential tool for creating a path to safety, reducing the risk or serious injury or death.  <i>Was the rule changed as a result of these comments? Yes</i>  <i>WAC 246-358-080(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.</i>
	246-358-080(1), (2)  246-359-550(1)-(5)	Require that carbon monoxide/smoke detectors make a warning noise when their batteries are low.  Don't require smoke detectors.  Don't require smoke detectors in kitchens and not in common cooking.  We support a requirement for smoke detectors in all dwelling units including kitchens.	Current CO/smoke detectors make a warning noise when their batteries are low. Location and installation of fire extinguishers is set by local ordinances and codes. It is recommended to install smoke detectors at a high point between the kitchen and the next room or area.  <i>Was the rule changed as a result of these comments? No</i>
Drain screens	246-358-090(1)(c), 246-358-093(4)(v), 246-358-095(2)(b)	Don't require floor drains to have screens – it is cosmetic and costly.	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.  <i>Was the rule changed as a result of these comments? No</i>

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Toilets	246-358-093 (5)(e) 246-359-560(3) 246-358-093(5)	<p>Provide partitions for facilities with multiple toilets for basic dignity.</p> <p>Don't require partitions between toilets – challenging for existing facilities. Costly for new and old construction.</p> <p>Incorporate the construction requirements of 358-093 into 359-560. Specifically - Provide adequate space for toilet stalls. (359)</p>	<p>The department has determined toilet partitions are necessary to maintain human dignity. However, the department recognizes this may result in a financial burden for some growers.</p> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-093(5) is revised so that toilet stalls must provide privacy and have smooth, cleanable, and nonabsorbent surfaces. For existing facilities or facilities approved for construction under chapter 246-359 WAC before January 1, 2016, the department will delay this requirement until January 1, 2017.</i></p>
	246-358-093(5) 246-359-560(3)	DOH misinterpreted CFR – two toilet minimum is cumulative - one for men and one for women. Often camps house few females, far from the need for two toilets.	<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"> <li>• One each for men and women if the TWH houses both men and women, or</li> <li>• Two if the TWH houses only men, or houses only women.</li> </ul> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-093(5) and WAC 246-359-560 Table 1 are 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.</i></p>
Toilets (cont.)	246-358-093 (4)(a), 246-359-560(2)	Incorporate the construction requirements of 358-093 into 359-560. Specifically - use of flush toilets.	<p>The department agrees that the requirement for flush toilets should be clear in 246-359-560.</p> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-359-560 is clarified to require flush toilets in new TWH facilities.</i></p>

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	246-358-093(5)	Provide toilets at 1 per 6 occupants.	<p>The department determined the federal requirement in 29 CFR 1910.142 of 1 toilet for every 15 persons in common toilet facilities, with a minimum of two toilets, is adequate for providing healthy and safe TWH facilities.</p> <p><i>Was the rule changed as a result of these comments? No.</i></p>
Urinal partitions	246-358-093 (4)(e)	Provide privacy partitions between urinals.	<p>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.</p> <p><i>Was the rule changed as a result of these comments? No.</i></p>
Lighting toilets	246-358-093 (5)(g)	<p>Replace 'adequate' lighting with appropriate lumens.</p> <p>Agree with additional lighting around toilet facilities.</p>	<p>The department believes that the term 'adequate' provides more flexibility for enforcement.</p> <p>Lighting is required for all toilet facilities, except the interior of chemical toilets. The operator must provide exterior lighting for all toilet facilities.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
	246-358-070 (1), (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.	

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Bathing	246-358-095(1), 246-358-029 Table 1, 246-359-560 (2)(c)	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, which the department believes is sufficient.
	Increase bathing/shower to 1 per 10 occupants.	Federal 29 CFR 1910.142 requires all shelter facilities be protected from the elements, which would include wet and freezing weather.  <i>Was the rule changed as a result of these comments? No.</i>	
	246-359-560		Incorporate the construction requirements of WAC 246-358-095(2) into 246-359. Specifically, provide shower facilities protected from the elements, including wet and freezing weather.
	246-358-095(5)(f), 246-359-560		Incorporate construction requirements of WAC 246-358-095(2) into 246-359-560. Specifically, 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.
	246-358-095 and 246-359-560	Set a minimum size for showers – e.g. IBC – 900 square inches and 30 inches minimum dimension.	<i>Was the rule changed as a result of these comments? Yes</i>
246-358-095(2)(e)	Don't require partitions between showers for privacy – costly for new and old construction.	<i>For existing facilities or facilities approved for construction under chapter 246-359 WAC before January 1, 2016, the department will delay this requirement until January 1, 2017.</i>	
Single faucets	246-358-095(2) 246-359-560 (3)(b)(i)	Don't mandate single faucets, should be choice. Not a problem.  Agree with single faucet that mixes hot and cold water.	The rule language to require single faucets was removed from a working draft of WAC 246-358 prior to the formal proposal (the CR-102). Under WAC 246-359-560(3), all new TWH construction must use single faucets that mix hot and cold water.  <i>Was the rule changed as a result of these comments? No</i>
Cooking	246-358-125(2)(a) 246-359-565(2)	All cooking and food-handling facilities should be covered and enclosed or screened.	Federal regulation 29 CFR 1910.142 requires all shelters in TWH to be protected from the elements, including cooking, eating, and food handling facilities.  <i>Was the rule changed as a result of these comments? Yes</i>  <i>WAC 246-358-125(2)(a) is revised to require food handling facilities be covered as well as enclosed or screened.</i>

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Eating area	246-358-125(2)(b) 246-359-565(3)	All eating facilities should be covered and enclosed or screened. They must protect from the elements including wet and freezing weather.	Federal regulation 29 CFR 1910.142 requires all shelters in TWH to be protected from the elements, including cooking, eating, and food handling facilities.
	246-358-125(2)(b) 246-359-565(3)	Don't require screening for dining/eating facilities.	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.
	246-358-125(2)(b) 246-359-565(3)	Provide adequate eating space for all occupants to eat meals seated at a table in construction rules.  Reduce to 50% seating, 70% is too high and arbitrary.	<i>Was the rule changed as a result of these comments? Yes</i>  <i>WAC 246-358-125(2)(b) and WAC 246-359-565(3) are revised to require that eating facilities be covered as well as enclosed or screened. The TWH operator must provide adequate tables and seating for occupants.</i>
Sinks – kitchen	246-358-125(2)(d)	Provide kitchen sinks large enough to allow food-handling and kitchen cleaning.  Provide at least one kitchen sink per 10 occupants in common cooking and food-handling facilities.	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.  <i>Was the rule changed as a result of these comments? No</i>
Food preparation areas	246-358-125(2)	Provide sufficient counter space for food preparation. Provide cabinets/shelving sufficient to store occupants' food and kitchen supplies.  Do not count hotplates toward the required number of cooking surfaces. Hotplates do not have adequate cooking space and take up limited counter space.	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 246-358-125(3)(c) regarding hotplates.  <i>Was the rule changed as a result of these comments? No</i>
Refrigerator	246-358-125(2)(g)	Require sufficient refrigerator space to store occupants' food that requires refrigeration.  The freezer compartment should be able to maintain a temperature below 0/-18 F/C.  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.	There have been no issues with the current requirement for 2 cubic feet of refrigerator space. Freezer space is not required by 29 CFR 1910.142. The refrigerator is the main compartment, and the rule sets the maximum temperature for this space. These rules are also consistent with food code standards.  <i>Was the rule changed as a result of these comments? No</i>

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Cooking surfaces (burners)	246-358-125 (3), (4)	<p>If operator can show there is not adequate space to add burners, grandfather clause or variance.</p> <p>Do not require the increased number of burners.</p> <p>Count microwaves and ovens as cooking surfaces.</p> <p>Provide cooking surface ratio of no more than four surfaces for every ten occupants. Make family facilities consistent with common food-handling facilities.</p> <p>Provide one cooking surface for every two occupants in dwelling units and common food-handling facilities.</p>	<p>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 ovens 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.</p> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-125(3)(c), (4) are revised to allow microwave ovens, stove ovens, or convection oven to meet the ratio of four cooking surfaces for every ten occupants.</i></p>
Beds, cots, mattresses	246-358-135(1)	<p>Do not limit cots to tent housing. Cots are good for alternatives, overflow. Expensive to replace existing cot use in regular TWH.</p> <p>Agree with limiting cots to tents.</p> <p>Do not allow mattresses or cots to have sag beyond standard recognized by the mattress industry.</p>	<p>The federal regulations 29 CFR 1910.142 allows cots in TWH facilities including tents.</p> <p>WAC 246-358-135(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.</p> <p>The department has determined that many upper bunk beds used in licensed TWH already have rails, and that retrofitting rails onto metal bunks may not be feasible.</p> <p><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-135(1) is revised to allow cots in all TWH sleeping rooms.</i></p> <p><i>WAC 246-358-135(8)(c) is revised to remove the requirement for rails on top bunks.</i></p>
	246-358-135(2)	Provide beds and mattresses at least twin sized.	
	246-358-135 (8)(c)	Don't require top bunk rail. No known problem for expense, unnecessary. Occupants will not like them, stepping over rail may cause falls – just cosmetic.	

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Bedding	246-358-135(5)	Increase the 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><i>Was the rule changed as a result of these comments? No.</i></p>
Personal storage	246-358-135 (9), (10)	<p>Do not require lockable personal storage – it would be very challenging – costly to replace plastic storage bins.</p> <p>Take lockable storage out of WAC 346-135-358 and put in chapter 246-359 WAC.</p> <p>Provide adequate space for occupants to store their belongings while having a decent amount of space to move around.</p>	<p>Federal regulation 29 CFR 1910.142 requires that operators provide storage for TWH occupants' belongings. The department believes workers living in common dwelling units are at increased risk for theft. WAC 246-358-135 requires lockable storage for workers in common dwelling units. 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><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-135 is revised to remove the requirement to provide lockable storage for occupants living in family shelters.</i></p>
Emergency communications	246-358-145(5) 246-358-050(1)	<p>Do not require the operator to provide a means of communication – too difficult and costly, may be impossible.</p> <p>We support requiring means of communication for contacting emergency services within two minutes of an emergency.</p>	<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><i>Was the rule changed as a result of these comments? Yes</i></p> <p><i>WAC 246-358-145(5) requiring a “means of communication” is deleted. Language is added to WAC 246-358-050 to require the camp management plan to include a communications plan for contacting emergency services in the event of an emergency, but does not require a specific method.</i></p>

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Disease prevention	246-358-175 (2)(c)	Remove 'productive cough' from the list of symptoms – too stringent & not necessarily indicative of a health problem.	<p>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.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
Fee inspection follow-ups	246-358-990 246-359-990	Charge operators a fee for the cost of follow-up inspections needed to verify repeat or serious deficiencies.	<p>The department will take these comments under advisement for possible future rulemaking. Charging follow-up inspections fees may require legislative approval as a new fee type, because the department does not currently charge a fee related to follow up inspections related to a complaint.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>

Comments on Construction Rules Only; Chapter 246-359 WAC			
TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Site design safety	246-359-150 (5)(e)	Provide grounds and infrastructure designed to allow safe passage at all hours. Place bathrooms and lighting taking into account safety of female residents.	Safety lighting and safe placement of bathroom entrances for safety of all occupants is in the construction rules, WAC 246-359-150(5)(e).  <i>Was the rule changed as a result of these comments? No</i>
Hand wash sinks	246-359-560 (2)(b)(iii)	Incorporate the requirements of WAC 246-358-093 into 246-359-560. Specifically - Provide hand wash sinks adjacent to toilets.	The requirement to provide hand wash sinks adjacent to toilets is in construction WAC 246-359-560(3)(b)(iii) WAC as well as in operations WAC 246-358-095(4)(c).  <i>Was the rule changed as a result of these comments? No</i>
Insulation	246-359-580(2)	All new TWH should be fully insulated (ceilings, floors, and walls). Insulation is important to maintain healthy indoor air temperatures and prevent dripping condensation.	R-15 insulation is required in proposed WAC 246-359-580(3) WAC for new TWH construction. The current rule required R-11 insulation.  <i>Was the rule changed as a result of these comments? No</i>
Laundry	246-359-560 (2)(e)	Increase laundry ratio. Provide sufficient wash machines to enable occupants to maintain clean clothes, and wash their clothes – 1 wash/laundry per 25 occupants is insufficient. Provide laundry facilities at 1 per 10 occupants.	The department will take these comments under advisement for possible future rulemaking.  <i>Was the rule changed as a result of these comments? No</i>
Separate child-parent sleeping	246-359-800(1)	Don't require separate sleeping room/area for adults from young children. This is an old ETA MSPA rule. May eliminate use of small units, cabins. Not useful regulation. Costly. Could force splitting a family into separate units.  Agree that there be separate sleeping facilities for husband and wife from their children.	The requirement for a separate sleeping room/area for adults from young children is a current requirement and is currently in 246-359-800(1) WAC.  <i>Was the rule changed as a result of these comments? No</i>

Other Comments			
TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Pesticides	General	<p>Do not increase requirements related to pesticides.</p> <p>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, air blast, or fumigation.</p> <p>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> <p>Provide each worker with dedicated, sealable bag/bin to store pesticide-contaminated work clothing in – must not mix work clothes with non-work clothes.</p>	<p>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. 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>The TWH program does not have jurisdiction to enforce requirements outside the TWH facilities or immediate surroundings. Chapter 70.114A RCW, the primary state law on TWH regulation and where the department's TWH rule authority lies, does not address pesticide use in or near TWH facilities. Regulation of pesticides in agricultural use resides with the departments of Agriculture, Ecology, and L&amp;I.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
	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.	
	246-358-010	Add RCW 70.104.020 definition of 'Pesticide' to the rules.	
	246-358-090	<p>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.</p> <p>Provide at least 1:10 drying machines. Provide clothes lines for drying washed contaminated clothing – sunlight can help degrade remaining pesticides.</p> <p>Disallow laundry tubs or trays for work clothes. Washing work clothes by hand exposes occupants to pesticides.</p>	

TOPIC	CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
ADA Bathing	246-358 General 246-359 General	Make ADA accessible toilets and bathing available.	<p>The TWH rules are exempt from the Americans with Disabilities Act requirements.</p> <p>Was the rule changed as a result of these comments? No</p>
Arbitration board	General	Add an arbitration board for farmers' compliance deficiency disputes.	<p>The department provides due process for TWH licensees or license applicants. The department does not believe an additional dispute resolution process is needed.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>