OSU Extension Joins Effort to Revise Agricultural Labor Camp Rules
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In fall of 2013, Extension, through the Ag & Hort Labor Education Program, joined the Ohio Department of Health’s Agricultural Labor Camp Rules Review Committee. The Committee membership eventually had representatives from Farm Bureau, ODIFS, ODH, ABLE Legal Services, county health departments, and agricultural employers from across the state. Winter and spring Committee meetings were held, and suggested revisions were finalized by summer. The following is a summary by Nolan Stevens, J.D., Public Policy Officer for the Ohio Commission on Hispanic/Latino Affairs.

Update on Migrant Seasonal Farm Worker Housing Regulations

In early June the Ohio Department of Health proposed new regulations governing living conditions at Ohio’s agricultural labor camps. These camps are designed to house migrant seasonal farm workers and their families while they are working in Ohio. These migrant laborers perform work indispensable for Ohio’s $93 billion per year agriculture industry, the State’s largest.

The proposed rules represent a significant reorganization of the rules. Presently, the rules governing agricultural labor camp housing standards are codified in the Ohio Administrative Code in sections 3701-33-01 to 3701-33-20. The new proposals unify a number of the old rules and amend others to create a new scheme of rules, which will be numbered 3701-33-01 through 3701-33-13. The rules cover administrative and enforcement protocols like definitions, new construction and substantial alterations, fees and licenses and inspections as well as regulatory habitability standards in water, sewer, housing requirements, toilets, heating, lighting and electric, hygienic facilities, laundry provision, solid waste disposal, pest control, fire safety and first aid. You can read the proposed new rules in their entirety here.

In many places the rules carry a two-pronged standard for habitability. The rules generally require less strict standards of habitability for units built before – and unaltered since – the original genesis of the rules in 1985. Growers needed this distinction upon initial adoption of the rules, as a means of avoiding or at least delaying the costs to make upgrades all at once to keep the camp in compliance with the minimum habitability standards. Advocates note that this “grandfather” provision, now entering its third decade, simply means that for those growers that have older facilities there is little incentive to upgrade and be governed by stricter rules.

The major changes this year include new requirements on minimum space between beds and floors, requirements for privacy screens in common-use toilet facilities and in family dwellings where children six or older are present. The new rules also require for the first time that children under two be allotted square footage in the space requirements and, significantly, that every dwelling in a camp be equipped with smoke detectors and alarms. Notably, the proposed rules would also require that all camps built or substantially altered - after the adoption of the proposed rules - provide running water to each individual dwelling. There is no such requirement for dwellings already in existence in Ohio’s agricultural labor camps, and no requirement that growers upgrade existing facilities and be governed by these higher standards. Note that, even in the oldest facilities, water is provided at least communally to workers. The debate is over the provision of water in individual dwellings.
The debate on running water was the most contentious part of the rule proposal process. Farm worker advocates and health experts noted that running water – both for food safety and for hand washing – is among the most effective tools for advancing public health. Running water is essential, they say, both to combat the spread of communicable disease and to keep food preparation safe. In dwellings or cooking spaces without running water, workers and their families will be less likely to observe the hand-and-food-washing protocols that are essential to the maintenance of public health. Advocates were also impatient with this issue since Ohio is very late in addressing it. Michigan, Indiana, Illinois, Wisconsin, and Pennsylvania all require running water to individual housing units where there is cooking, and these states adopted these standards more than a decade ago. Other states - including North Carolina, Florida, Texas, Washington, and New York (in place since 1968) - have also adopted this standard. In Ohio, meanwhile, the standards for water supply in agricultural labor camps have been unchanged since the inception of the rules in 1985. Advocates suggest that Ohio will have increasing difficulty attracting the migrant seasonal farm workers the state requires when our neighboring states provide more attractive living conditions.

There were significant objections among growers on the Committee to the inclusion of a requirement that all dwelling units include running water. Growers were concerned primarily about the upgrade costs which, since they would include running water and sewage to individual dwellings in the camp, could be very expensive. Some growers with older, “cabin-style” dwellings also cited the simple physical infeasibility of extending these utilities to individual dwellings, as there simply isn’t enough space. Advocates countered that units that old ought to be replaced anyway, and that the potential costs are offset significantly by an available Ohio Department of Job and Family Services grant that would match grower investments in upgrading their agricultural labor camps. They also offered to provide growers a five-year window to become compliant with the new proposal.

Ultimately, the Committee decided not to include a requirement that each dwelling be provided with running water, but did adopt a rule requiring all units and camps that are built or substantially altered in the future provide running water to individual dwellings. Many advocates around the state continue to argue through public comment for the inclusion of a rule requiring the extension of running water to migrant agricultural labor camp dwellings, as the public comment period is open until July 5th. Interested parties may comment online here…

The rules that govern the housing conditions for migrant seasonal farm workers are adopted and enforced by the Ohio Department of Health according to the process outlined in the Ohio Revised Code, and the review process occurs every five years. ODH convened a committee comprised of stakeholders and issue experts – including public health officials, migrant seasonal farm worker advocates, and Ohio growers – and settled on proposed rules. These rules were then submitted for review by the Common Sense Initiative, a program designed to curb the adoption of rules that are unduly burdensome on Ohio businesses, which is run by Lieutenant Governor Taylor’s office. The proposed rules have already been through the CSI protocols and will, after the public comment period closes, be filed with both the Joint Committee on Agency Rule Review, the Ohio Legislative Service Commission and the Ohio Secretary of State.