



Oregon

Kate Brown, Governor

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February 3, 2021

Request for Public Comment - Petition to Amend 437-004-1120 Agricultural Labor Housing and Related Facilities in response to the COVID-19 temporary rule 437-001-0749 extended by Executive Order 20-58

Oregon OSHA is requesting public comment regarding a petition for rulemaking received January 4, 2021. This petition was submitted by Oregon Farm Bureau Federation to amend 437-004-1120 Agricultural Labor Housing and related Facilities. This petition was submitted in response to the COVID-19 temporary rule 437-001-0749, which was effectively re-enacted by the Governor's Executive Order 20-58. It effectively requests that Oregon OSHA amend an Oregon administrative rule (OAR) related to these subjects.

Oregon OSHA has attached the petition in question to this document. We encourage public commenters to review this document and the resources referenced there. The suggested petition highlights areas of rulemaking that could affect the agricultural community, as well all other labor housing that is not related to agriculture based on OAR 437-002-0142 Temporary Labor Camps. This rule out of Division 2 applies to General Industry, Construction, and Forest Activities and it requires employers to follow the Division 4 requirements (with a few specific exceptions) as they relate to labor camps.

Oregon OSHA is currently proposing permanent Rules Addressing the COVID-19 Public Health Emergency in All Oregon Workplaces, and it expects to propose another rule before February 28, 2021 regarding Temporary Worker Housing to ensure protection for all workers. As the Executive Order is set to expire April 30, 2021, the public emergency remains a significant concern in Oregon and it is necessary to adopt most of the provisions from the temporary rule to protect workers. In replacing the temporary rule with a permanent rule, some provisions will change as more information is available in relation to the transmission of the virus. It is expected that this rule will be repealed once it is no longer necessary to address the COVID-19 pandemic.

Oregon OSHA takes seriously our responsibility to present each request and engage with both the industry and worker communities impacted by the petitions we receive. As such, your public comment on this petition is needed and encouraged. All comments received will be evaluated as part of our response to this petition and will be considered as we develop the

proposed rulemaking referenced in the previous paragraph. Oregon OSHA will respond to this petition after public comment is received.

Per Oregon Revised Statute 183.390(2), Oregon OSHA is soliciting public comment as required by the statute regarding this petition. Specifically, Oregon OSHA is requesting public comment regarding the following:

- Whether there are options for achieving the substantive goals of the suggested rule amendments in a way that reduces the negative economic impact on businesses, and;
- Whether or not Oregon OSHA should initiate rulemaking to amend OAR 437-004-1120, or other related rules, based on this petition. For these purposes, 'initiating rulemaking' would mean in this case we would initiate permanent rulemaking to address the COVID-19 pandemic in agricultural labor housing.

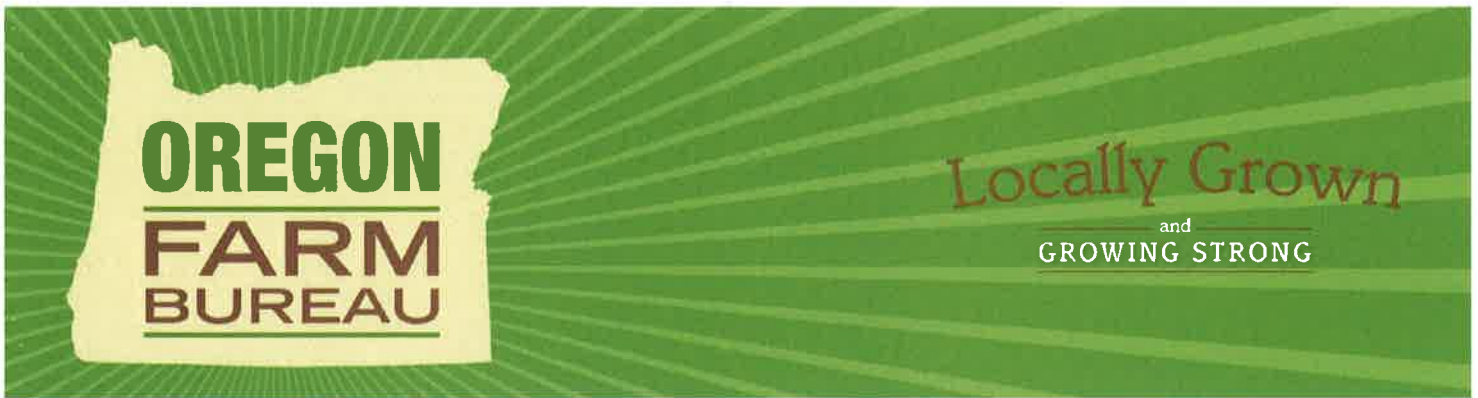
For more information: Our web site –
<https://osha.oregon.gov/rules/advisory/Pages/default.aspx>
Look under **Currently active** for a full electronic PDF copy that includes Appendix A.
For a printed copy, please call 503-947-7449.

To comment: Department of Consumer and Business Services/Oregon OSHA
P.O. Box 14480
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Comment period closes: February 24, 2021

Oregon OSHA contact: Lisa Appel, Central Office @ 503-947-7449
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Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.



January 4, 2021

Michael Wood
Oregon Occupational Safety and Health
350 Winter St NE,
Salem, OR, 97301, Oregon

VIA EMAIL: michael.wood@oregon.gov

Dear Administrator Wood,

The Oregon Farm Bureau Federation (OFBF) writes today to formally petition OR-OSHA to adopt permanent amendments to OAR 437-004-1120, with a sunset date coinciding with the end of the state of the emergency or no later than December 31, 2021, in an effort to mitigate the spread of COVID-19 in operator-provided housing. By way of background, OFBF is the state's largest agricultural trade association, representing nearly 7,000 farm and ranch families across Oregon, many of whom provide housing to their occupants as either a voluntary benefit or part of the federal H-2A program.

OFBF has a material interest in the adoption of the proposed amendments to Division 4 because a robust, healthy, and safe workforce is critical to the success of Oregon agriculture and securing our food supply. OFBF has been steadfast in its commitment to protect both farmers and their employees since the first case of COVID-19 in Oregon. We believe there is a way to protect essential agricultural employees and farm operators, while also keeping farms viable and employees housed and earning wages. Unfortunately, the rules adopted by OR-OSHA in May of 2020, and extended to April 2021 through Executive Order 20-58, fail to strike this important balance, and have caused substantial harm to both farmworkers and the farm families who employ them.

As discussed in more detail below, and invited by EO 20-58, we urge OR-OSHA to acknowledge the unintended consequences of its past rules and initiate a formal rulemaking outside of the Infectious Disease Standard RAC to ensure that agricultural workers are housed in safe environments, and that employees and operators are not needlessly exposed to COVID-19.

First, operator-provided agricultural labor housing is the only OR-OSHA compliant, inspected, and regulated housing available in Oregon exclusively for farmworkers at no-cost. Inexplicably, OR-OSHA's rules, extended through EO 20-58, all but ensures that most agricultural occupants will not be able to live on-farm in safe shelter, and instead pushes them to entirely unregulated environments. Specifically, the prohibition on bunk beds, bed spacing requirements, and need for isolation units under the EO has drastically reduced the number of employees who can be housed on-farm.

While the reduction in density may reduce COVID-19 exposure in on-farm housing, it is indisputable that OR-OSHA's requirements have pushed agricultural workers off-site into unregulated living situations where the risk of COVID-19 exposure far exceeds that in on-farm housing. Many farmers reported that the passage of these rules reduced their housing occupancy by about half. Farmworker advocacy groups have reported that farmworkers are living in cars, sleeping on couches, or living with multiple generations of family members in small apartments where social distancing and frequent sanitation is not provided or possible. To make matters worse, housing availability has been further reduced in key areas of the state due to wildfire damage. Specifically, many of the housing options available to farmworkers in Southern Oregon were destroyed in the Almeda Fire. OR-OSHA should be working with housing providers to create more options for safe housing on-farm during this time, not making safe-shelter options unavailable because of excessive COVID-19 requirements.

Second, to prevent the spread of COVID-19, everyone on farm must take measures to protect themselves and others. This means that housing providers must ensure that the housing they offer is safe and equipped with supplies needed to mitigate spread of the virus. Housing occupants must also be responsible for social distancing, wearing masks, practicing good hygiene, and keeping their personal spaces clean during off hours. EO 20-58 places the burden of sanitation almost exclusively on the operator or their agent, as opposed to the occupants of the housing unit. We believe taking away agency and responsibility from employees during their non-work hours is not an appropriate response to the pandemic.

Most importantly, OR-OSHA's rules should be focused on reducing COVID-19 exposure, and control measures should be based upon best available science. Ten months into the pandemic, we should be long past the proverbial spaghetti thrown against the wall. Unfortunately, the arbitrary cleaning requirements of EO 20-58 actually increase the risk of exposure for both operators and occupants as compliance with the rules requires constant interaction with potentially infected individuals. There is no contingency plan built into the rules for an outbreak in a housing unit, leaving both occupants and providers with the choice of either exposing themselves to COVID-19, or getting a Class C Misdemeanor.

As you are aware, OR-OSHA has already adopted temporary rules on this subject, which were extended by Executive Order 20-58 in contravention of the intent of the Oregon Administrative Procedures Act (APA). We are requesting that OR-OSHA adopt permanent rules regarding farmworker housing standards during COVID-19 that will sunset upon the end of the emergency

declaration or at the end of 2021, whichever comes first. Given that the COVID-19 state of emergency is likely to extend beyond April, we believe that a permanent rulemaking with a sunset is a much more transparent and appropriate solution than further extension of the temporary rules by Executive Order, which violate the intent of the Oregon APA and carries criminal penalties for what would otherwise be an administrative action. In the event that COVID-19 becomes a permanent fixture in modern society – akin to the current “flu season” – we would like to work with OR-OSHA to determine which provisions of these rules may be necessary to deal with COVID-19 in the long term.

We urge the agency to initiate rulemaking to adopt the provisions outlined in Appendix A attached to the Petition with a sunset date of the end of the state of emergency or the end of 2021, whichever happens first. Our proposed rules are crafted by actual housing providers, and serve the dual goals of protecting farmworkers and farm operators, while ensuring farms are able to employ and safely house their employees instead of pushing them off-site, into unregulated housing. A rulemaking within Division 4 is the most appropriate way to address agricultural employer-provided housing concerns during COVID-19, and should be initiated as soon as possible to protect farmworkers and operators.

Thank you and please do not hesitate to reach out to us if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Bayer', with a long horizontal flourish extending to the right.

Samantha Bayer
Policy Counsel
Oregon Farm Bureau

PETITION TO AMEND OAR 437-004-1120

Department of Consumer and Businesses Services

In the matter of Amendment of)	Petition to Amend 437-004-1120
OAR 437-004-1120, Division 4)	Agricultural Labor Housing and
Agricultural Labor Housing)	Related Facilities

1. Petitioner's name and address is Oregon Farm Bureau Federation, 1300 Capitol St. NE #200, Salem, OR 97301.
2. Petitioner is the state's largest agricultural trade association, representing nearly 7,000 farm and ranch families across Oregon, many of whom provide housing to their occupants as either a voluntary benefit or part of the federal H-2A program.
3. Under the provisions of the temporary rules (OAR 437-001-0749) that were subsequently extended by Executive Order 20-58, Petitioner's members must comply with strict COVID-19 mitigation requirements for their housing units, including, but not limited to, requirements for sanitation, bunk beds, bed spacing, housing configuration, social distancing, notification, and more. The monetary costs of compliance with these rules has been exorbitant. To assist farmers with absorbing costs of the rules, the State funded the Food Security & Farmworker Safety Program with \$15 million in federal CARES dollars. However, the fund will end at the end of 2020, and will not be able to assist housing providers in cost recovery for the duration of EO 20-58. Additionally, the fund did not provide cost recovery for cleaning supplies, which is estimated to be over \$1500 a week as the rules require operators to clean every sink, toilet, and high touch surface multiple times, irrespective of use.

Beyond monetary costs, compliance with the rules has caused material harm to both farmworkers and their occupants. Namely, the prohibition on bunk beds, bed spacing requirements, and need for standalone isolation units has drastically reduced housing capacity on farm, and pushed agricultural workers off-site into unregulated housing. Many farmers reported that since the passage of these rules, their housing occupancy has been reduced by about 50%. Moreover, compliance with the rules requires constant interaction with possibly contaminated surfaces and infected individuals. There is no contingency plan built into the rules for if there is actually an outbreak in a housing unit, forcing occupants or providers to expose themselves to COVID-19.

4. Petitioner contends that the prohibition on bunkbeds, current bed spacing requirements, and sanitation requirements as written are harmful to both occupants and housing providers. Petitioner asserts that the rules need to be rewritten in order to remedy serious deficiencies and reduce COVID-19 exposure in agricultural provided housing.
5. Petitioner proposes that OAR 437-004-1120 be amended to incorporate the provisions outlined in Appendix A of this Petition, with an automatic sunset at the end of the state of the emergency, or no later than December 31, 2021, whichever comes first.

6. Persons and organizations which may have a particular interest in the proposed amendments include any registered agricultural housing provider in the state, agricultural occupants, organizations representing different agricultural commodities, farmworker advocacy groups, and the media. This is why OR-OSHA should conduct a timely and transparent public process accepting comments as outlined under ORS 183.390(2).
7. The current requirements of the temporary rules extended by EO 20-58 are unusually and unnecessarily complex, unnecessarily stringent, and the costs of compliance are high.
8. The proposed amendments to OAR 437-004-1120 do not overlap, duplicate, or conflict with any state, federal, or local regulation that Petitioner has identified. The rules that agricultural labor housing providers were following (OAR 437-001-0749) expired on October 24, 2020. On October 23, 2020, Governor Brown issued Executive Order (20-58) extending the requirements for operator-provided housing until April 30th. However, adoption of new permanent rules was encouraged by the Governor in passing EO 20-58. Specifically, in the [press release](#) from the Governor's office, the Governor states, "The Governor's Executive Order is in effect through April 30 while Oregon OSHA works to adopt permanent rules." As such, OR-OSHA should initiate a permanent rulemaking based upon this Petition so that EO 20-58 can be repealed upon adoption of the proposed amendments.
9. Since the adoption of OAR 437-004-1120, the COVID-19 pandemic has severely impacted our state, nation, and global community. Therefore, Division 4 should include rules that speak directly to COVID-19 mitigation. However, nine months into the pandemic, the science and best practices around COVID-19 has progressed, and therefore, changes need to be made to the rules to reflect best available science. Namely, the CDC has made clear that surface contact is not a major transmitter of COVID-19. Additionally, the CDC recommends limited exposure to individuals not within one's household – this includes limiting exposure between operators and occupants. The CDC further recommends the concept of cohorting, where individuals are encouraged to form small groups that undertake activities together to minimize interaction of infectious individuals from non-infected individuals as much as possible.
10. There is a continued need for the rules to protect both farmers and farmworkers in Oregon. The rule amendments set forth in Appendix A would achieve the rule's goals and would greatly reduce the economic effect on Petitioner's members.

Dated January 4, 2021.



Samantha Bayer
Policy Counsel
Oregon Farm Bureau

Summary of Amendments to Division 4, OAR 437-004-1120, Agricultural Labor Housing

Physical Distancing Measures. To ensure appropriate physical distancing in agricultural labor housing, operators operating such facilities and occupants living in such facilities, must:

1. Ensure beds are spaced apart so that at least six (6) feet exists between individuals when they are using beds. The six-foot distance should be measured from the center point of each mattress to the center point of any adjacent mattress. Beds and cots must be arranged so that occupants sleep head to toe. If it is impossible for bed spaces to be six (6) feet apart, an operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by Oregon OSHA.
2. The use of bunk beds is allowed. Operators who provide bunk beds must ensure bunk beds are spaced apart so that at least six (6) feet exists between adjacent bunk beds. The six-foot distance should be measured from the center point of each mattress to the center point of any adjacent mattress. If bunk beds are vertically adjustable, the maximum allowable vertical distance must be provided between bunks of the same unit. If it is impractical for bunk bed spaces to be six (6) feet apart, an operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by Oregon OSHA, including but not limited to the fastening of impermeable curtains to bunks to serve as physical barriers.
3. Arrange seating and tables in dining areas to facilitate the requirement of at least six (6) feet of physical distance between tables. Restrict tables and seating in dining areas to allow for no more than eight (8) occupants per table.
4. Avoid entering occupant's rooms or living quarters unless it is necessary.
5. Limit non-essential visitors in common use areas, except for authorized persons.

Mask, Face Shields, and Face Coverings.

1. Operators must ensure that all occupants of agricultural labor housing have access to or are in possession of adequate masks, face shields, or face coverings without cost.
2. Operators and occupants must plan and implement housing operation activities so that occupants will not need to be within six (6) feet of each other. In the event that the operator or occupant determines it is impossible to avoid such contact, occupants must wear masks, face shields, or face coverings if they are within six (6) ft of another individual, except in limited circumstances.

Sanitation. To help reduce the spread of COVID-19, housing operators must:

1. Ensure bathrooms and sinks are consistently supplied with water, soap, and disposable drying materials for handwashing without cost. Provide access to trash

bins and plastic bags for the proper disposal of used drying materials and other personal care products without cost.

2. Ensure that high-touch surfaces and common areas are cleaned every 48-hours. Occupants should be encouraged to clean and sanitize their personal spaces (including but not limited to bedframes, nightstands, storage spaces, lockers) as much as possible.
3. Ensure that occupants of agricultural labor housing have access to cleaning and sanitation supplies and the costs of these materials should not be shifted to occupants. If cleaning and sanitizations supplies become unavailable, the operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by OR-OSHA.
4. In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements described in this section, and should follow guidance provided by their Local Health Authority.

Ventilation. Operators must ensure that existing heating or air conditioning units are in good working condition. Operators must ensure that all air filters are maintained and replaced to ensure the proper function of the systems.

Signage & Training. To reinforce the need to minimize COVID-19 risks, operators must:

1. Post signage in appropriate languages on the entrance of each unit listing COVID-19 symptoms, encouraging physical distancing, the importance of proper handwashing, proper cleaning, sanitization, and about the mask, face shield, or face covering requirements.
2. Hold a training session for occupants to go over US Centers for Disease Control guidelines for reducing transmission of COVID-19, and how they can protect themselves during off-hours.
3. Develop or update emergency action and Hazard Communication Program plans by identifying a list of key contacts at local and state health departments, as well as a list of healthcare facilities where occupants with respiratory illness can seek appropriate care. Make these contacts readily available for occupants.
4. Instruct occupants that if they are sick or have COVID-19 symptoms, they must alert their housing provider immediately.

Notification. The operator must establish a process to notify affected occupants that they had a housing-related contact with an individual who has tested positive for COVID-19. This notification process must include the following elements:

1. A mechanism for notifying affected occupants within 12-hours of the operator being made aware of the positive test result that an individual with COVID-19 was present in the agricultural labor housing area or otherwise may have had contact with its occupants; and
2. This notification process must be established in accordance with all applicable federal and Oregon laws and regulations.

Reporting. Operators must report cases of COVID-19 as soon as possible to local public health authorities or the Oregon Health Authority if local health authorities are unavailable.

COVID-19 Response Plan. In the event that a housing provider is notified by an occupant that they are suspected to have COVID-19 or have COVID-19, housing providers must take the following steps:

1. Suspect COVID-19 cases should be encouraged to seek advice by telephone from a healthcare provider to determine whether medical evaluation is needed.
2. Suspect cases should be immediately isolated with sleeping, eating, and bathroom accommodations that are separate from others. If providing such isolation on-site is not practical, the operator must immediately contact the Oregon Health Authority or the local public health authority to make appropriate arrangements. Operators must follow the guidance provided to an operator by the Oregon Health Authority or their local health department.
3. While waiting for direction and guidance from the Oregon Health Authority or the local public health authority, operators must make best efforts to keep the occupant isolated from other occupants or occupants. Occupants suspected to have COVID-19 must be provided:
 - (a) A mask, face shield, or face covering;
 - (b) Gloves;
 - (c) Tissues;
 - (d) Water; and
 - (e) A separate restroom facility.
4. Confirmed COVID-19 cases must be isolated and only housed with other confirmed cases and must have separate bathroom, cooking and eating facilities from occupants who have not been diagnosed with COVID-19. If providing such isolation on-site is not practical, the housing provider must immediately contact the Oregon Health Authority or the local public health authority for direction. Housing providers must follow the guidance provided them by the Oregon Health Authority or their local health authority.

5. While waiting for direction from the Oregon Health Authority or the local public health authority, operators must make best efforts to keep the occupant isolated from other occupants or occupants. Occupants confirmed to have COVID-19 must be provided:
 - (a) A mask, face shield, or face covering;
 - (b) Gloves;
 - (c) Tissues;
 - (d) Water; and
 - (e) A separate restroom facility.
6. If able, occupants suspected or confirmed to have COVID-19 must clean and disinfect their own sleeping, eating, or bathroom accommodations after each use.
7. Occupants who are not suspected or confirmed to have COVID-19 should not use any bed, bathroom, or common area previously used by an individual suspected or confirmed to have COVID-19 until it is thoroughly cleaned following the Oregon Health Authority or Local Health Authority's guidance provided to the operator for cleaning and sanitation after a suspected or confirmed case.

Sunset. These rules are repealed on the date in which the state of emergency ends, or no later than December 31, 2021, whichever comes first.

APPENDIX A - Administrative Rule Addressing the COVID-19 Public Health Emergency in Labor Housing and Agricultural Employment

(1) Scope and Application

- (a) This rule applies to all temporary worker housing or other employer-provided housing, whether such housing is otherwise currently covered by OAR 437-004-1120 "Agricultural Labor Housing and Related Facilities" or by CFR 1910.142 and OAR 437-002-0142 "Labor Camps."
- (b) 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 of workers on an agricultural establishment. ~~With the exception of Subsections (5) and (27) below,~~ these rules also apply to any such housing provided by an employer or other person in connection with the employment of workers in any non-agricultural business activity.
- (c) 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.
- (d) 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 918-500-0020(2) that have the requirements and specifications for sanitation and safety design for manufactured dwellings.
- (e) 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.
- (f) These rules, unless otherwise stated, apply to all occupants of the labor housing and facilities.
- (g) Violations relating to the occupants' personal housekeeping responsibilities outlined in this rule and that are not common use will not result in citations to the employer.
- (h) 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 unless such housing is provided by someone other than the employer specifically to respond to a public health emergency.
- (i) For the purposes of OAR 437-004-1120, labor contractors as defined in ORS 658.405 are employers.
- (j) These rules do not apply to:
 - (i) Hotels or motels that provide similar housing commercially to the public on the same terms as they do to workers. This includes hotels or motels that have been temporarily closed due to the current emergency, but that restore their operations

on a limited basis to allow employers to house workers in the facility, provided that the following conditions are met:

- (1) The hotel/motel facility must be licensed and meet the other requirements in Chapter 333, Division 29, Travelers'Accommodation.
- (2) The rooms provided must maintain the configuration typically offered to travelers (while this does not preclude changing the arrangement of beds, it does preclude the addition of bunk beds or other measures to increase the occupancy of the room).
- (3) Room assignment must ensure privacy and separation for families and to unrelated occupants of different genders.
- (4) The occupied rooms must continue to receive regular services for cleaning and for the laundry of linens used by guests.
- (5) The rooms must not be modified to include kitchen facilities not already part of the room as previously available to guests. Note: Because such facilities are exempt from this rule, the presence of a pre-existing kitchenette or other food preparation facility does not require the square footage requirements of the rule.

(2) Definitions

- (a) Clean means the absence of soil or dirt or removal of soil or dirt by washing, sweeping, clearing away, or any method appropriate to the material at hand.
- (b) Common use facilities are those for use by occupants of more than one housing unit or by occupants of dormitory-style housing.
- (c) Common use cooking and eating facility is a shared area for occupants to store, prepare, cook, and eat their own food.
- (d) Dining hall is an eating place with food furnished by and prepared under the direction of the operator for consumption, with or without charge, of the occupants.
- (e) Facility means a living area, drinking water installation, toilet installation, sewage disposal installation, food handling installation, or other installation required for compliance with the labor housing and related facility rules.
- (f) Garbage means food wastes, food packaging materials or any refuse that has been in contact with food stuffs.
- (g) Housing site is a place where there are living areas.
- (h) Livestock operation is any place, establishment or facility with pens or other enclosures in which livestock is kept for purposes including, but not limited to, feeding, milking, slaughter, watering, weighing, sorting, receiving, and shipping. Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance are outside this definition.

- (i) Living area is any room, structure, shelter, tent, manufactured home or dwelling or prefabricated structure, vehicle, or other place housing one or more persons.
 - (j) Manufactured dwelling is a residential trailer, built before January 1, 1962, for movement on the highway, that has sleeping, cooking and plumbing facilities; or, a mobile home, constructed for movement on the highway, that has sleeping, cooking and plumbing facilities, built between January 1, 1962 and June 15, 1976 and meeting the requirements of Oregon mobile home law in effect at the time of construction.
 - (k) Manufactured home is a structure built for movement on the highway that has sleeping, cooking and plumbing facilities and is used as a residence. Built on or after June 15, 1976 to comply with federal manufactured housing standards and regulations in effect at the time of construction. More information on these definitions is in ORS 446.003(26).
 - (l) Operator means any person or company that operates labor housing and/or related facilities.
 - (m) Potable water is water meeting the bacteriological and other requirements of the Public Health Division of the Oregon Department of Human Services.
 - (n) Prefabricated structure means a building or subassembly which has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site; but does not include a manufactured home or dwelling. Prefabricated structures are manufactured in accordance with the Oregon state building code and rules adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services in OAR 918-674.
 - (o) Privy is the same as outhouse or pit toilet but is not the same as portable toilets.
 - (p) Recyclable material means containers that are returnable for refund of a deposit or materials gathered as part of a recycling program.
 - (q) Refuse includes waste materials such as paper, metal, discarded items, as well as debris, litter and trash.
 - (r) Sanitary means free from agents that may be injurious to health.
 - (s) Sewage means the water-carried human and animal wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such ground-water infiltration, surface waters, or industrial wastes as may be present.
 - (t) Toilet room is a room in or on the premises of any labor housing, with toilet facilities for use by employees and occupants of that housing.
- (3) Agricultural Labor Housing registration requirements.
- (a) ORS 658.705 requires the operator of Agricultural Labor Housing and Related Facilities to register such housing with Oregon OSHA as in (B) below, except the following:
 - (i) housing occupied solely by members of the same family,

- (ii) housing occupied by five or fewer unrelated persons, or
 - (iii) housing on operations that do not produce or harvest farm crops. (Oregon OSHA considers “production of crops” to mean production of farm crops for sale”).
- (b) Each year, before occupancy, the operator or employer must register agricultural labor housing and related facilities with Oregon OSHA as set out below:
- (i) The operator must contact Oregon OSHA at least 45 days before the first day of operation or occupancy of the housing and related facilities. Instructions and additional information will come later by mail.
 - (ii) If the housing and related facilities were not registered in the previous year, the operator must call Oregon OSHA to request a consultation visit to the housing. Oregon OSHA will register housing and related facilities not previously registered only after a pre-occupancy consultation that finds the housing or facility to be substantially in compliance with all applicable safety and health rules.
 - (iii) If there were significant changes in the circumstances of the housing or facilities since the last registration, Oregon OSHA may, at its discretion, refer the employer for a consultation prior to re-registering the housing and facilities.
 - (iv) Once registered, the operator must display the registration certificate provided by Oregon OSHA in a place frequented by employees. The operator must also provide and display a translation of the certificate in the language or languages used to communicate with employees.
 - (v) **All housing, whether already registered as agricultural labor housing for 2021 or not, must comply with the requirements of this rule. If necessary, Oregon OSHA will consider expedited housing registration for the 2021 season for additional housing required for workers quarantined or isolated as a result of COVID-19 exposure, COVID-19 symptoms, or positive COVID-19 diagnosis.**
 - (vi) The Director of the Department of Consumer and Business Services or designee may revoke a labor housing and related facilities registration if OR-OSHA determines that any of the following apply:
 - (1) The application had any negligent or willful material misrepresentation, or false statement.
 - (2) The conditions under which the registration was accepted no longer exist or have changed.
 - (3) The housing and related facilities are not substantially in compliance with the applicable safety and health rules.
- (c) When Oregon OSHA revokes the registration of agricultural labor housing and related facilities, operators or their agents have 30 days to file a written appeal. On receipt of such appeal, the Director of the Department of Consumer and Business Services will hold a contested case hearing on that appeal under ORS 183.413, et seq.
- (d) Any group or individual may protest the proposed registration, continued registration

or renewal of any labor housing and related facilities registration under the following conditions:

- (i) The signed and dated protest must be submitted in writing and received by the Director before issuance of the registration or renewal.
- (ii) The protest must include the name, address and phone number of the individual or group filing it.
- (iii) The protest must clearly identify which housing and related facilities is the subject of the protest, including the exact physical location and name of the applicant.
- (iv) The protest must clearly state the facts and reasons for the protest. Such facts and reasons must be based on factors that are within the scope of ORS 654, ORS 658.705 through 658.850 and any relevant regulations.
- (v) When the above provisions are met, such group or individual may participate in the contested case as a party or limited party under OAR 137-003-0005.

(4) Mask, Face Shields, and Face Coverings.

(a) Operators and occupants must plan and implement housing operation activities so that occupants will not need to be within six (6) feet of each other. In the event that the operator or occupant determines it is impossible to avoid such contact, occupants must wear masks, face shields, or face coverings if they are within six (6) ft of another individual, except if the occupant is:

- (i) In a housing unit or area occupied solely by members of the same family.**
- (ii) Is in their own personal vehicle, except when interacting with an individual outside the vehicle.**
- (iii) Is under five (5) years of age.**
- (iv) Is eating or drinking.**
- (v) Is engaged in an activity that makes wearing a mask, face covering or face shield not feasible, such as brushing their teeth or washing their face.**
- (vi) Is sleeping or using their bed, cot, or bunk.**

(b) Operators must ensure that all occupants of agricultural labor housing have access to or are in possession of adequate masks, face shields, or face coverings without cost.

(5) Non-essential Visitors. Occupants must limit non-essential visitors in common use areas, except for authorized persons.

(6) Signage & Training. To reinforce the need to minimize COVID-19 risks, operators must:

- (a) Post signage in appropriate languages on the entrance of each unit listing COVID-19 symptoms, encouraging physical distancing, the importance of proper handwashing, proper cleaning, sanitization, and about the mask, face shield, or face covering requirements.
 - (b) Hold a training session for occupants to covering the US Centers for Disease Control's personal preventative measures.¹
 - (c) Develop or update emergency action and Hazard Communication Program plans by identifying a list of key contacts at local and state health departments, as well as a list of healthcare facilities where occupants with respiratory illness can seek appropriate care. Make these contacts readily available for occupants.
 - (d) Instruct occupants that if they are sick or have COVID-19 symptoms, they must alert their housing operator immediately.
- (7) Site requirements.
- (a) The grounds of labor housing and related facilities must be substantially free from waste water, sewage, garbage, recyclable material, refuse or noxious plants such as poison oak and poison ivy.
 - (b) During housing occupancy, grass, weeds and brush must be cut back at least 30 feet from buildings.
 - (c) All housing site land must have adequate drainage. The site must not be subject to flooding when occupied.
 - (d) Adequately dispose of the waste water and food waste under outside water hydrants.
 - (e) The operator of labor housing is responsible for the maintenance and operation of the housing and its facilities.
 - (f) Store all toxic materials such as pesticides, fertilizers, paints and solvents in a safe place.
 - (g) Do not leave empty pesticide containers such as drums, bags, cans, or bottles in the housing area.
 - (h) Prevent or control the breeding of mosquitoes, flies, and rodents in the immediate housing area and within 200 feet of any labor housing and related facilities owned or under lawful control or supervision of the operator.
 - (i) Do not locate labor housing within 500 feet of livestock operations unless the employees in the housing are employed to tend or otherwise work with the animals.
 - (j) Provide electricity to all housing units and related facilities. Subdivision 4/S, Electricity applies to ALH.

¹ [How to Protect Yourself & Others | CDC](#)

- (k) Extension cords or plug strips must have circuit breaker or fuse protection either as part of the set or part of the building wiring.
 - (l) Facilities built or remodeled before December 15, 1989, must have a ceiling or wall-type electric light fixture in working order and at least one wall-type electrical outlet in every living area. Facilities built or remodeled after that date must comply with the code in effect at the time of construction or remodeling.
 - (m) Provide a ceiling or wall-type electric light in toilet rooms, lavatories, shower or bathing rooms, laundry rooms, hallways, stairways, the common eating area or other hazardous dark areas.
 - (n) Light privies either directly or indirectly from an outside light source.
 - (o) Provide enough light in corridors and walkways to allow safe travel at night.
 - (p) Each housing site must have its street numbers displayed to be easily visible to responding emergency vehicles on public highways or roads.
 - (q) The lowest point of wooden floor structures must be at least 12 inches above ground.
 - (r) **Post signage in appropriate languages on the main entrance of each housing unit listing COVID-19 symptoms, encouraging physical distancing, the importance of proper handwashing, proper cleaning, sanitization, and about the mask, face shield, or face covering requirements.**
- (8) Water supply.
- (a) All domestic water furnished at labor housing and related facilities must conform to the standards of the Public Health Division of the Oregon Department of Human Services. The site water system must supply at least 15 psi at the outlet end of all water lines regardless of the number of outlets in use.
 - (b) Have a bacteriological analysis done on the water before occupancy and as often as needed to assure a potable water supply, except when the water comes from a community water system.
 - (c) Provide enough potable water in the labor housing area for drinking, hand washing, bathing and domestic use. An ample supply is at least 35 gallons of water per day per occupant.
 - (d) Arrange, construct and if necessary, periodically disinfect the water storage and distribution facilities to satisfactorily protect the water from contamination. Install all new plumbing in labor housing and related facilities to comply with the Oregon state building code.
 - (e) When potable water is not available in each dwelling unit, there must be a potable water source within 100 feet of each unit and there must be a working, clean drinking fountain for each 100 occupants or fraction thereof.
 - (f) Post as, "Unsafe for drinking," non-potable water that is accessible to occupants. The

posting must be in the language of the housing occupants or with a universal symbol.

- (g) Portable water containers with spigots and tight fitting lids are acceptable for providing and storing drinking water in the housing.
 - (h) These containers must be made of impervious non-toxic materials that protect the water from contamination.
 - (i) Wash and sanitize containers at least every 7 days.
 - (j) **Sanitize the spigots and spigot handles at least once every 48-hours (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this section, and should follow guidance provided by their Local Health Authority.**
 - (k) Do not use containers such as barrels, pails or tanks that require dipping or pouring to get the water.
 - (l) Do not use cups, dippers or other utensils for common drinking purposes.
 - (m) Do not allow cross connection between a system furnishing water for drinking purposes and a non-potable supply.
- (9) Bathing, hand washing, laundry, and toilet facilities – General.
- (a) Provide an adequate supply of hot and cold water under pressure for all common use bathing, hand washing, and laundry facilities at all labor housing and related facilities.
 - (b) In installations with bathing, laundry facilities, or flush toilets, the floor and walls must be of readily cleanable finish and impervious to moisture.
 - (c) All common use bathing, hand washing, and laundry facilities must be clean, sanitary, and operating properly.
 - (d) Buildings for common use bathing, hand washing, laundry, and toilet facilities must have heating capable of keeping the facility at 68 degrees or more during use.
 - (e) **Operators must ensure that all bathing, hand washing, laundry, and toilet facilities are consistently supplied with water, soap, and disposable drying materials for handwashing without cost. Provide access to tissues, trash bins, and plastic bags for the proper disposal of used tissues and other personal care products without cost.**
 - (f) **Operators must ensure that occupants of agricultural labor housing have access to adequate cleaning and sanitation supplies, and the costs of these materials should not be shifted to occupants. If cleaning and sanitization supplies become unavailable, the operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by Oregon OSHA.**

(g) Bathing facilities.

- (i) Provide drains in all showers to remove wastewater. Slope floors so they drain. Do not use slippery materials for flooring.
- (ii) Provide at least one shower head with hot and cold water under pressure for every 10 occupants or fraction thereof. Unisex shower rooms are acceptable in the same ratios. They must have working locks and provide privacy.
- (iii) Separate common use bathing facilities used for both sexes in the same building by a solid, non-absorbent wall extending from the floor to the ceiling.
- (iv) Mark separate sex bathing facilities, if provided, with "women" and "men" in English and in the native language of employees expected to occupy the housing or with easily understood pictures or symbols.

(h) Hand washing facilities.

- (i) Provide at least one hand washing sink or basin with hot and cold water under pressure for every 6 occupants or fraction thereof. Each 24 linear inches of "trough" type sink with individual faucets counts as one basin. When each living unit does not have hand washing facilities, locate common use facilities either close to the toilet facilities or close to the sleeping places.
- (ii) In common use facilities, do not use a single common towel. If you provide paper towels, there must be a container for their disposal.

(iii) Sanitize all high-contact surfaces in common-use facilities, including (but not limited to) door handles, controls, and paper towel dispensers every 48-hours (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this section, and should follow guidance provided by their Local Health Authority.

(10) Laundry facilities.

- (a) Provide laundry trays, tubs, or machines with plumbed hot and cold water in the combined ratio of 1 for each 30 occupants or each part of 30.
- (b) Provide clothes lines or drying facilities to serve the needs of the occupants.
- (c) Laundry rooms must have drains to remove waste water.
- (d) Each common use laundry room must have a slop sink.
- (e) **Sanitize all high-contact surfaces in common-use facilities, including (but not limited to) door handles and controls every 48-hours (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this**

section, and should follow guidance provided by their Local Health Authority.

(11) Toilet facilities.

- (a) Locate toilet facilities in labor housing and related facilities within 200 feet from the living area that they serve.
- (b) Locate toilets, chemical toilets, or urinals in rooms built for that purpose.
- (c) Maintain a usable, unobstructed path or walkway free of weeds, debris, holes or standing water from each living area to the common use toilet facilities.
- (d) Provide at least one toilet for every 15 occupants or fraction thereof for each gender in the labor housing. Toilets must assure privacy.
 - (i) If urinals are in the toilet facility and where three or more toilets are required for men, one urinal substitutes for one toilet (24 inches of trough-type urinal equals one urinal), to a maximum of one-third of the total required toilets.
 - (ii) Existing urinals must be non-absorbent, non-corrosive materials that have a smooth and cleanable finish. Urinals installed after the effective date of this standard must meet Oregon state building code.
 - (iii) If there are no common use toilet facilities, calculate the required ratio without regard to gender.
- (e) **Clean and sanitize common use toilet facilities at least every 48-hours or more often when needed to maintain sanitation (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this section, and should follow guidance provided by their Local Health Authority.**
- (f) Mark separate sex toilet facilities, when provided, with “women” and “men” in English and in the native language of employees expected to occupy the housing or with easily understood pictures or symbols.
- (g) Ventilate all labor housing toilet rooms according to the Oregon state building code.
- (h) Separate common use toilet facilities used for both sexes in the same building by a solid, non-absorbent wall extending from the floor to the ceiling.
- (i) Install privacy partitions between each individual toilet or toilet seat in multiple toilet facilities. The partitions may be less than the height of the room walls.
- (j) The top of the partition must be not less than 6 feet from the floor and the bottom of the partition not more than 1-foot from the floor. The width of the partition must extend at least 1 1/2 feet beyond the front of the toilet seat.
- (k) Provide a door or curtain so the toilet compartment is private.
- (l) Provide common use toilet facilities with toilet paper and holders or

dispensers. Also provide disposal containers with lids.

(m) Do not allow obstruction of the path or access to a toilet room. If access is through another room, that room must not be lockable.

(n) Portable toilets, chemical toilets and privies.

(i) The location and construction of privies must conform to Oregon Department of Environmental Quality standards.

(ii) Privies must be at least 100 feet from any living area or any facility where food is prepared or served.

(iii) Portable toilets and privies must have adequate lighting.

(iv) When in use, service portable and chemical toilets at least weekly or often enough to prevent them from becoming a health hazard. Clean portable toilets, chemical toilets, and privies daily. In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this section, and should follow guidance provided by their Local Health Authority.

(12) Sewage disposal and plumbing.

(a) Connect the sewer lines from the labor housing and related facilities to a community sewer system, a septic tank with subsurface disposal of the effluent, pit type privies or other sanitary means conforming to Department of Environmental Quality standards.

(b) Install all plumbing in labor housing and related facilities to comply with Department of Environmental Quality standards and the Oregon state building code.

(13) Garbage and refuse disposal outside of buildings.

(a) Keep refuse and garbage containers clean and in good repair.

(b) Provide at least one 30-gallon or larger container per 15 occupants. Containers must be inside the housing site area and accessible to all occupants.

(c) Empty garbage bins and dumpsters at least weekly during use, but always before they become a health hazard or full enough to interfere with full closing of the lid.

(d) Empty common use cans and portable containers into a bin or dumpster, when full or twice weekly whichever is more frequent. Do not allow garbage on the ground.

(e) Keep all refuse and garbage containers covered and the garbage storage area clean to control flies and rodents.

(f) Do not burn any food, garbage or wet refuse.

(14) Living areas.

(a) Keep all living areas, safe and in good repair structurally and stable on their foundations. They must provide shelter for the occupants against the elements and protect the

occupants from ground and surface water as well as rodents and insects.

- (b) The walls and roof must be tight and solid. Floors must be rigid and durable, with a smooth and cleanable finish in good repair.
- (c) **Existing heating or air conditioning units must be in good working condition.**
Operators must ensure that all air filters are maintained and replaced to ensure the proper function of the systems.
- (d) For living areas without a working permanent heating system or heaters, the ALH operator must supply portable heaters at no cost to the occupant. These heaters must be capable of keeping the temperature in the living area at a minimum of 68 degrees. Heaters must meet these requirements:
 - (i) Operate by electricity only.
 - (ii) Have working safety devices installed by the manufacturer for the particular type heater.
 - (iii) Be in good working order with no defects or alterations that make them unsafe.
- (e) Permanently installed solid fuel or gas fired heaters must meet the following:
 - (i) Install and vent any stoves or other sources of heat that use combustible fuel to prevent fire hazards and dangerous concentration of gases.
 - (ii) Solid or liquid fuel heaters or stoves installed on or before December 15, 1989, must sit on a concrete slab, insulated metal sheet or other fire resistant material when used in a room with wood or other combustible flooring. Extend it at least 18 inches beyond the perimeter of the base of the stove.
 - (iii) Solid or liquid fuel heaters or stoves must meet the manufacturer's specifications and the Oregon state building code in effect at the time of installation.
 - (iv) Install fire resistant material on any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove pipe. Provide a vented metal collar around the stovepipe, or vent passing through a wall, ceiling, floor or roof or combustible material.
 - (v) Heating systems with automatic controls must cut off the fuel supply on failure or interruption of the flame or ignition, or when they exceed a pre-determined safe temperature or pressure.
 - (vi) All gas appliances and gas piping must comply with the Oregon state building code in effect at time of installation and the manufacturer's instructions.

- (vii) Do not locate stoves so they block escape from a sleeping place.
- (f) Provide screens of at least 16 mesh on the doors and windows of the living area. All screen doors must be tight-fitting, in good repair, and self-closing.
- (g) Provide beds, bunks or cots for each occupant and suitable storage facilities, such as wall cabinets or shelves, for each occupant or family unit.
 - (i) The housing operator must provide a mattress or pad for each bed or bunk.
 - (ii) If you provide foam pads, they must be thicker than 2 inches.
 - (iii) Do not provide uncovered foam pads.
 - (iv) Mattresses or pads must not sit on the floor.
 - (v) The sleeping surface must be at least 12 inches above the floor.
- (h) Mattresses or pads furnished by the housing operator must be clean, in good repair, and free from insects and parasites.
 - (i) Fumigate mattresses or pads, used uncovered, or treat with an effective insecticide before each season's occupancy and whenever the pad is assigned to a new user. If you provide covers, clean them before each season's occupancy and whenever the cover is assigned to a new user.
 - (ii) Store mattresses or pads in a clean, dry place.
- (i) Space the beds, bunks or cots so that there is enough room to allow for rapid and safe exiting during an emergency.
- (j) In living areas built after August 1, 1975, where workers cook, live, and sleep, provide at least 100 square feet per occupant.
- (k) In living areas built before August 1, 1975, where workers cook, live and sleep, provide at least 60 square feet per occupant.
- (l) Each sleeping room without double bunk beds must have at least 50 square feet of floor space per employee. Where there are double bunk beds for related individuals, provide 40 square feet per occupant. Do not use triple bunks.
- (m) Beds must be arranged so that at least one of the following is true:**
 - (i) Beds and cots must be spaced at least six (6) feet apart between the center point of each mattress, cot, or bed frame, in all directions and arranged so that occupants sleep head to toe; OR**

- (ii) Beds and cots must be separated by a floor to near ceiling temporary non-permeable barrier (for example, using plexiglass, heavy plastic, lightweight wood sheeting, etc.) placed perpendicular to wall such that a 28-inch minimum aisle remains available to the occupant of each bed; OR
- (iii) An operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by OR-OSHA.
- (n) Bunk beds must be arranged so that at least one of the following is true:

 - (i) Bunk beds must be spaced at least six (6) feet apart between the center points of each adjacent bunk bed; OR
 - (ii) If it is impossible for bunk bed to be spaced six (6) feet apart, an operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by Oregon OSHA, including but not limited to the fastening of impermeable curtains to bunks to serve as physical barriers.
- (o) If bunk beds are vertically adjustable, the maximum allowable vertical distance must be provided between bunks of the same unit.
- (p) All agricultural labor housing, where workers cook, live and sleep in the same area, must provide 100 square feet per occupant.
- (q) Only areas with a 7 foot ceiling height will count toward the required square footage of any living or sleeping area.
- (r) Provide separate private sleeping areas for unrelated persons of each sex and for each family unit.
- (s) Provide windows or skylights with a total area equal to at least 10 percent of the required floor area. At least one-half (nominal) the total required window or skylight area must be openable to the outside. Adequate mechanical ventilation may substitute for openable window space. Not more than one-half the required space can be met with skylights. Openable, screened windows in doors count toward this requirement.
- (t) Before occupancy clean all living areas and eliminate any rodents, insects, and animal parasites.
- (u) Housing operators must provide adequate cleaning materials at no cost, allowing occupants to clean and sanitize their living areas regularly. Occupants should be encouraged to clean their personal living areas as much as possible, including bed or bunk frames, and storage facilities, such as wall cabinets or shelves.
- (v) Operators should avoid entering occupant's rooms or living quarters unless it is necessary.

(15) Fire protection.

- (a) All fires must be in equipment designed for that use. Do not allow open fires within 25 feet of structures.
- (b) Each season, at the time of initial occupancy, each living area must have a working approved smoke detector.
- (c) Provide fire extinguishing equipment in a readily accessible place, not more than 50 feet from each housing unit. The equipment must provide protection equal to a 2A:10BC rated extinguisher.
- (d) All living areas with more than one room, built before December 15, 1989, with one door, must have, in addition to a door, a window in each sleeping room that can be an exit in case of fire.
- (e) This window must have an openable space at least 24 inches by 24 inches, nominal.
- (f) The lowest portion of the opening must be less than 48 inches above the floor.
- (g) This window must open directly to the outdoors and be readily openable by the occupants from inside without breaking the glass.
- (h) Label the escape window as an emergency exit.
- (i) Living areas built on or after December 15, 1989, must meet the requirements for emergency exits in applicable rules of the Building Codes Division of the Oregon Department of Consumer and Business Services, including the following: Required emergency exit windows in sleeping rooms must have a clear net opening of at least 5.7 square feet, minimum vertical opening of 22 inches and minimum horizontal opening of 20 inches.
- (j) A second story must have at least two exits when its occupant load is 10 or more. Comply with the Oregon state building code.
- (k) Occupants on floors above the second story and in basements must have access to at least two separate exits from the floor or basement as required by the Oregon state building code.

(16) Common use cooking and eating facilities and equipment.

- (a) When provided, common use cooking or food preparation facilities or equipment must have the following:
 - (i) A gas or electric refrigerator, capable of keeping food at or below 41 degrees F.

- (ii) A minimum equivalent of two cooking burners for every 10 persons or part thereof, or 2 families, whichever requires the most burners. If a gas or electric hotplate or wood stove is within 18 inches of a wall, that wall must be made of or finished with smooth cleanable, nonabsorbent, grease-resistant and fire-resistant material.
 - (iii) No liquid petroleum gas (LPG like propane) tanks in use inside any occupied building. Outside tanks must connect to appliances with lines approved for that purpose.
 - (iv) Food storage shelves, food preparation areas, food contact surfaces and floors in food preparation and serving areas must be made of or finished with smooth, nonabsorbent, cleanable material; and
 - (v) A table and chairs or equivalent seating and eating arrangements to accommodate the number of occupants living in the sleeping place.
- (b) Refrigerators and stoves or hot plates must always be in working condition.
- (c) **Clean the facilities and equipment before each occupancy. Ensure that high-touch areas in common use facilities are sanitized every 48-hours (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this section, and should follow guidance provided by their Local Health Authority.**
- (d) Common use kitchen and dining areas must be separate from all sleeping quarters. There can be no direct opening between kitchen or dining areas and any living or sleeping area.
- (e) **Arrange seating and tables in dining areas to facilitate the requirement of at least six (6) feet of physical distance between tables.**
- (f) **Provide tables and seating in dining areas to allow for no more than eight (8) occupants per table.**
- (g) If the operator becomes aware of or has reason to suspect that anybody preparing, cooking or serving food has a communicable disease as listed in paragraph (22), the operator must bar them from the cooking facility until the disease is no longer communicable.
- (h) Buildings must have heating capable of keeping the facility at 68 degrees or more during use.
- (i) Facilities must be in buildings or shelters. Doors, windows and openings, if any, must have screens of 16 mesh or smaller.

(17) Dining halls and equipment.

(a) When provided, dining halls or equipment must have the following:

- (i) A gas or electric refrigerator, capable of keeping food at or below 41 degrees F.
- (ii) A minimum equivalent of two cooking burners for every 10 persons or part thereof, 2 families, whichever requires the most burners. If a gas or electric hotplate or wood stove is within 18 inches of a wall, that wall must be made of or finished with smooth cleanable, nonabsorbent, grease-resistant and fire resistant material.
- (iii) No liquid petroleum gas (LPG like propane) tanks in use inside any occupied building. Outside tanks must connect to appliances with lines approved for that purpose.
- (iv) Food storage shelves, food preparation areas, food contact surfaces and floors in food preparation and serving areas must be made of or finished with smooth, nonabsorbent, cleanable material; and
- (v) A table and chairs or equivalent seating and eating arrangements to accommodate the number of occupants living in the sleeping place.

(b) Refrigerators and stoves or hot plates must always be in working condition.

(c) Clean the facilities and equipment before each occupancy. Ensure that high-touch areas in common use facilities are sanitized every 48-hours (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). In the event of a COVID-19 outbreak in operator-provided housing, operators should suspend the cleaning requirements for non-infected individuals described in this section, and should follow guidance provided by their Local Health Authority.

(d) Common use kitchen and dining areas must be separate from all sleeping quarters. There can be no direct opening between kitchen or dining areas and any living or sleeping area.

(e) If the operator becomes aware of or has reason to suspect that anybody preparing, cooking or serving food has a communicable disease as listed in paragraph (22), the operator must bar them from the cooking facility until the disease is no longer communicable.

(f) Buildings must have heating capable of keeping the facility at 68 degrees or more during use.

(g) The facility must comply with the 2005 edition of the FDA Food Code.

(h) Facilities must be in buildings or shelters. Doors, windows and openings, if any, must

have screens of 16 mesh or smaller.

- (18) Single unit cooking facilities.
- (a) When provided, single unit cooking, eating and dining facilities or equipment must have the following:
- (i) A gas or electric refrigerator, capable of keeping food at or below 41 degrees F.
 - (ii) A minimum equivalent of two burners for cooking for every 10 persons or part thereof, or 2 families, whichever requires the most burners. If a gas or electric hotplate or wood stove is within 18 inches of a wall, that wall must be made of or finished with smooth cleanable, nonabsorbent, grease-resistant and fire resistant material.
 - (iii) No liquid petroleum gas (LPG like propane) tanks in use inside. Outside tanks must connect to appliances with lines approved for that purpose.
 - (iv) Food storage shelves, food preparation areas, food contact surfaces and floors in food preparation and serving areas made of or finished with smooth, non-absorbent, cleanable material.
 - (v) A table and chairs or equivalent seating and eating arrangements to accommodate the number of occupants living in the sleeping place.
 - (vi) A refrigerator and stove or hot plate in working condition.
- (b) Clean the facilities before each occupancy. In addition, housing operators must provide cleaning materials at no cost, allowing occupants to clean and sanitize their living areas regularly.
- (19) First aid. OAR 437-004-1305, Medical and First Aid, applies to all labor housing and related facilities. This rule includes requirements for first aid supplies, an emergency medical plan and a plan of communication.
- (20) **Notification. The operator must establish a process to notify affected occupants that they had a housing-related contact with an individual who has tested positive for COVID-19. This notification process must include the following elements:**
- (a) **A mechanism for notifying affected occupants within 12-hours of the operator being made aware of the positive test result that an individual with COVID-19 was present in the agricultural labor housing area or otherwise may have had contact with its occupants; and**
 - (b) **This notification process must be established in accordance with all applicable federal and Oregon laws and regulations.**

(21) **Disease Reporting. The housing operator must comply with OAR 333-018- 0000, Who Must Report and OAR 333-018-0015, What To Report And When:**

333-018-0000 Who Must Report

Each Health Care Provider knowing of or attending a case or suspected case of any of the diseases, infections, or conditions listed in OAR 333-018-0015 shall report such cases as specified. Where no Health Care Provider is in attendance, any individual knowing of such a case shall report in a similar manner.

333-018-0015 What to Report and When

Reportable diseases, infections, microorganisms, and conditions, and the time frames within which they must be reported are as follows:

Immediately, day or night: Bacillus anthracis (anthrax); Clostridium botulinum (botulism); Corynebacterium diphtheriae (diphtheria); Severe Acute Respiratory Syndrome (SARS) and infection by SARS-coronavirus; Yersinia pestis (plague); intoxication caused by marine microorganisms or their byproducts (for example, paralytic shellfish poisoning, domoic acid intoxication, ciguatera, scombroid); any known or suspected common-source Outbreaks; any Uncommon Illness of Potential Public Health Significance. **Note: COVID-19, which is caused by the virus SARS-CoV-2, falls within this reporting category.**

Within 24 hours (including weekends and holidays): Haemophilus influenza (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); measles (rubeola); Neisseria meningitidis (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); Pesticide Poisoning; poliomyelitis; rabies (human or animal); rubella; Vibrio (all species).

Within one Local Public Health Authority working day: Bordetella pertussis (pertussis); Borrelia (relapsing fever, Lyme disease); Brucella (brucellosis); Campylobacter (campylobacteriosis);

Chlamydia (Chlamydia) psittaci (psittacosis); Chlamydia trachomatis (chlamydiosis; lymphogranuloma venereum); Clostridium tetani (tetanus); Coxiella burnetii (Q fever); Creutzfeldt- Jakob disease and other transmissible spongiform encephalopathies; Cryptosporidium (cryptosporidiosis); Cyclospora cayentanensis (cyclosporiasis); Escherichia coli (Shiga-toxigenic, including E. coli O157 and other serogroups); Francisella tularensis (tularemia); Giardia (giardiasis); Haemophilus ducreyi (chancroid); hantavirus; hepatitis A; hepatitis B (acute or chronic infection); hepatitis C; hepatitis D (delta); HIV infection (does not apply to anonymous testing) and AIDS; Legionella (legionellosis); Leptospira (leptospirosis); Listeria monocytogenes (listeriosis); mumps; Mycobacterium tuberculosis and M. bovis (tuberculosis); Neisseria gonorrhoeae (gonococcal infections); pelvic inflammatory disease (acute, non-gonococcal); Plasmodium (malaria); Rickettsia (all species: Rocky Mountain spotted fever, typhus, others); Salmonella (salmonellosis, including typhoid); Shigella (shigellosis); Taenia solium (including cysticercosis and undifferentiated Taenia infections); Treponema pallidum (syphilis); Trichinella (trichinosis); Yersinia (other than pestis); any infection that is typically arthropod vector-borne (for example: Western equine encephalitis, Eastern equine encephalitis, St. Louis encephalitis, dengue, West Nile fever, yellow fever, California encephalitis, ehrlichiosis, babesiosis, Kyasanur Forest disease, Colorado tick fever, etc.); human bites by any other mammal; CD4 cell count <200/mm³ or CD4 proportion of total lymphocytes < 14%; hemolytic uremicsyndrome.

Within 7 days: Suspected Lead Poisoning (for laboratories; this includes all blood lead tests performed on persons with suspected lead poisoning).

(22) **COVID-19 Response Plan. In the event that a housing provider is notified by an occupant that they are suspected to have COVID-19 or have COVID-19, housing providers must take the following steps:**

(a) **Suspect COVID-19 cases should be encouraged to seek advice by telephone from a healthcare provider to determine whether medical evaluation is needed.**

- (b) Suspect cases should be immediately isolated with sleeping, eating, and bathroom accommodations that are separate from others. If providing such isolation on-site is not practical, the operator must immediately contact the Oregon Health Authority or the local public health authority to make appropriate arrangements. Operators must follow the guidance provided to an operator by the Oregon Health Authority or their local health department.
- (c) While waiting for direction and guidance from the Oregon Health Authority or the local public health authority, operators must make best efforts to keep the occupant isolated from other occupants or occupants. Occupants suspected to have COVID-19 must be provided:
- (i) A mask, face shield, or face covering;
 - (ii) Gloves;
 - (iii) Tissues;
 - (iv) Water; and
 - (v) A separate restroom facility.
- (d) Confirmed COVID-19 cases must be isolated and only housed with other confirmed cases and must have separate bathroom, cooking and eating facilities from occupants who have not been diagnosed with COVID-19. If providing such isolation on-site is not practical, the housing provider must immediately contact the Oregon Health Authority or the local public health authority for direction. Housing providers must follow the guidance provided them by the Oregon Health Authority or their local health authority.
- (e) While waiting for direction from the Oregon Health Authority or the local public health authority, operators must make best efforts to keep the occupant isolated from other occupants or occupants. Occupants confirmed to have COVID-19 must be provided:
- (i) A mask, face shield, or face covering;
 - (ii) Gloves;
 - (iii) Tissues;
 - (iv) Water; and
 - (v) A separate restroom facility.
- (f) If able, occupants suspected or confirmed to have COVID-19 must clean and disinfect their own sleeping, eating, or bathroom accommodations after each use.
- (g) Occupants who are not suspected or confirmed to have COVID-19 should not use any bed, bathroom, or common area previously used by an individual suspected or confirmed to have COVID-19 until it is thoroughly cleaned following the Oregon Health Authority or Local Health Authority's guidance provided to the operator for cleaning and sanitation after a suspected or confirmed case.

- (23) Closure and alternative housing.
- (a) The operator of agricultural labor housing must provide replacement lodging without charge to the occupants if a government agency with the authority to enforce building, health or safety standards declares the housing or facilities to be uninhabitable and orders them vacated.
 - (b) The operator must provide replacement lodging for 7 consecutive days from the time the housing was closed or until the closing agency allows the original housing to reopen, whichever is shorter.
 - (c) Replacement lodging must meet or exceed the health and safety standards of Oregon OSHA. Oregon OSHA must approve the location of the replacement housing before employees are sent to it.
 - (d) Operators must arrange for replacement lodging not later than the end of the day the original housing closes or another date designated by the closing agency.
 - (e) Post the address of the replacement housing:
 - (i) Not later than the end of the day the original housing closes.
 - (ii) In a place convenient to affected workers.
 - (iii) In all languages spoken by the occupants.
 - (f) The posting in (e) above must state that the replacement housing is free to occupants of the closed housing.
 - (g) The operator must give Oregon OSHA a list of names of the occupants and the location of the replacement housing, for each.
 - (h) When the cause of the closure is beyond the control of the agricultural labor housing operator, sections (a), (b), (c), (d), (e) and (g) above do not apply. To determine whether the cause of closure was beyond the control of the operator, Oregon OSHA will consider these circumstances, including but not limited to:
 - (i) Whether the cause of the closure is a natural disaster;
 - (ii) Whether the circumstances leading to the closure were known or should have been known to the operator;
 - (iii) Whether operator diligence could have avoided the circumstances leading to the closure.
 - (i) Agricultural labor housing occupants entitled to temporary replacement housing under this rule must accept or reject that housing when the original housing closes. These rules do not obligate operators to reimburse displaced occupants for housing they obtain without the operator's knowledge or consent. The operator is responsible for replacement lodging only for as many people as occupied the original closed housing. When an occupant rejects the replacement housing, the operator has no obligation to reimburse that occupant for other replacement housing.

(j) Oregon OSHA may issue a citation and assess a monetary penalty for violation of these rules as in ORS 654.071 and 654.086.

(24) **Sunset Date. The provisions of this rule are automatically repealed upon the end of the declared state of emergency because of COVID-19, but in any event not later than December 31, 2021.**