



Temporary Rule Enforcement Memorandum Oregon Occupational Safety & Health Division

May 8, 2020

TO: Oregon OSHA Enforcement & Consultation Staff
FROM: Michael Wood, Administrator
SUBJECT: Interim Guidance Related to Temporary Rules Adopted in Response to the COVID-19 Emergency

On April 28th, 2020, Oregon OSHA adopted temporary emergency rules in response to the COVID-19 Emergency. These rules affect three different but related aspects of Oregon's industry -- Field Sanitation for Hand Labor, Temporary Labor Housing, and Agriculture Employer Provided Transport – and are designed to at least mitigate the spread of COVID-19 among the agricultural workforce in particular.

Employer representatives have asked for additional time to comply with the requirements of the rule. In addition, Oregon OSHA has not fully completed the educational efforts we had planned to complete by today. Employers have also asked that certain provisions of the existing rules be relaxed during this emergency or other clarifications provided. In response to these concerns, we are providing the following guidance (to supplement that already provided in the Q&A document – which will be updated to reflect this information):

- 1) All enforcement of the rule (including the provisions that technically take effect May 11) will be delayed until June 1, 2020.
- 2) Individual growers seeking a further enforcement delay (beyond the demonstrated inability to comply with certain provisions already acknowledged in the rule) will need to seek a temporary variance based on their particular circumstances. Oregon OSHA will expedite handling of at least an initial response to such variance requests to the degree possible.
- 3) In the context of this emergency, Oregon OSHA will not be enforcing the ceiling height requirements that took effect January 1, 2018 but instead will allow growers to once again (and temporarily) count space with a ceiling height between 5 and 7 feet toward as much as 50 percent of the required square footage.

- 4) In the context of this emergency, Oregon OSHA will allow placement of beds in what would otherwise be commons rooms *provided* that exit routes are not obstructed and the beds are not placed in close proximity to cooking facilities. The other requirements of the temporary rule in relation to bed placement will still need to be maintained, but we will relax enforcement of the 100 square foot requirement *if* the reason for the bed placement is to remove them from sleeping areas in the same facility.
- 5) As explicitly noted in the rule, the rule will not apply to hotel or motel space that is offered in the same condition it would be to the general public if the facility were operating – the Employment Department has already confirmed with the USDOL that such use will be permitted for H2A workers with a contract waiver that Employment can process (and in a number of cases already has processed such waivers).
- 6) As explicitly noted in the rule, the rule will not apply to housing provided by someone other than the employer specifically to respond to a public health emergency (even if is provided as a condition of employment and would otherwise be subject to the rule).
- 7) In addition to the explicit provisions in the rules related to manufactured housing, we will allow the use of Recreational Vehicles and travel trailers on the housing operator's site, provided that the vehicles are used to house related individuals and that they are not used to house individuals beyond the sleeping capacity indicated by the vehicle manufacturer.

Please direct any questions to Technical, to Renee Stapleton, or to me.