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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OSHA 2-2020
CHAPTER 437
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION

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SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Rule Addressing the COVID-19 public health emergency in labor housing and agricultural employment

EFFECTIVE DATE: 04/28/2020 THROUGH 10/24/2020

AGENCY APPROVED DATE: 04/28/2020

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NEED FOR THE RULE(S):

These rules are needed to protect vulnerable workers in agriculture, especially those who spend both their working and their off-work hours at the employer's location in an extension of the normal workplace, from the unique health risks created by the current public health emergency.

JUSTIFICATION OF TEMPORARY FILING:

COVID-19 represents a public health crisis throughout the country and the world, as well as in the state of Oregon. In most situations, Oregon OSHA has concluded that the application of general guidance in tandem with the employer's general obligations to provide a safe and healthy workplace for workers provide sufficient, if not ideal, protection. However, the unique exposures created in the agricultural environment, particularly in working situations requiring large numbers of workers, and the unique challenges faced in situations where housing is provided as part of the employment relationship, create a unique set of issues, presenting not only an increased risk to individual workers, but also providing the potential for further contagion as the state begins its return to a more normal working environment. A failure to adopt rules immediately would subject these workers, who live in particularly vulnerable situations and who are faced with greater-than-normal obstacles to effective health care, to a heightened risk of serious illness – and even death -- due to COVID-19. Oregon has concluded that existing requirements provide insufficient protection, and cannot be expected to provide sufficient protection throughout the current public health crisis, since no rules could be adopted in the normal course of events until well after the current season's harvests have been completed. These temporary rules will provide increased minimum standards related to sanitation, toilet and handwashing facilities, and social distancing that will serve to mitigate – although not fully resolve – the increased risks faced by the working population in labor camps and throughout agriculture.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

<https://osha.oregon.gov/rules/advisory/Documents/Notice-with-Petition-Field-Sanitation-Ag-Labor-Housing-Response-to-COVID-19-Pandemic.pdf> - Petition from the Oregon Law Center and Dr. Eva Galvez of the Virginia Garcia

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on April 28, 2020 by the

Department of Consumer and Business Services- Oregon OSHA	437	
Agency and Division	Administrative Rules Chapter Number	
Heather Case	Oregon OSHA-350 Winter St NE, Salem, OR 97301	503-947-7449
Rules Coordinator	Address	Telephone

to become effective [April 28, 2020] through [October 24, 2020].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Rules Addressing the COVID-19 Public Health Emergency in Labor Housing and Agricultural Employment.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT: 437-001-0749

Stat. Auth.: ORS 654.025(2), ORS 656.726(4)

Other Auth.:

Stats. Implemented: ORS 654.001 through 654.295

RULE SUMMARY

These rules are needed to protect vulnerable workers in agriculture, especially those who spend both their working and their off-work hours at the employer's location in an extension of the normal workplace, from the unique health risks created by the current public health emergency.


Authorized Signer

Michael S. Wood
Printed name

4/28/2020
Date

Comments received as a result of requesting public comment on the petition- Available through public records request.

https://www.wenatcheeworld.com/news/coronavirus/36-asymptomatic-stemilt-employees-test-positive-for-covid-19/article_4f0e7e54-840a-11ea-a88c-5f1045c97810.html

<https://www.lni.wa.gov/rulemaking-activity/AO20-09/2009DraftLanguage04232020.pdf>

HOUSING IMPACT STATEMENT:

List of rules adopted or amended:

ADOPT: 437-001-0749

Materials and labor costs increase or savings:

None.

Estimated administrative construction or other costs increase or savings:

None.

Land costs increase or savings:

Oregon OSHA does not foresee any effect on land costs.

Other costs increase or savings:

Oregon OSHA does not foresee any additional costs.

PREPARERS NAME: Heather Case

EMAIL ADDRESS: heather.case@oregon.gov

ADOPT: 437-001-0749

RULE TITLE: Temporary rule addressing the COVID-19 emergency in employer-provided housing, labor-intensive agricultural operations, and agricultural transportation.

RULE SUMMARY: New temporary rule regarding employer provided housing, labor-intensive agricultural operations, and agricultural transportation related to the COVID-19 pandemic.

RULE TEXT:

(1) Effective Date

(a) Unless otherwise noted, the provisions of this rule take effect May 11, 2020 and will remain effect until repealed, but

not later than October 24, 2020.

(2) Scope and Application

(a) Section 1 of this rule applies to all labor-intensive agricultural operations (activities that normally fall under OAR 437, Division 4) when employees would otherwise perform their duties or routinely congregate within 6 feet of one another. Agricultural employers whose normal activities do not involve such close contact have no additional requirements under Section 1. While this rule remains in effect, its requirements supersede those found in OAR 437-004-1110 "Field Sanitation for Hand Labor Work" for all activities otherwise subject to that rule.

(b) Except as otherwise noted, Section 2 of 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."

(c) Section 3 of this rule applies to all employer-provided transportation within labor-intensive agricultural operations. It does not apply to employer-provided transportation when such transportation supports activities that fall outside the scope of Section 1 of this rule.

(3) Section 1. Labor-Intensive Agricultural Operations

(a) Scope. This applies to any agricultural establishment where employees do hand-labor operations in the field or otherwise engage in labor-intensive agricultural activities.

(b) Exceptions. These rules do not apply to:

(A) Logging operations;

(B) The care or feeding of livestock;

(C) Hand-labor operations in permanent structures (e.g., canning facilities or packing houses); or

(D) Machine operators working entirely separate from hand-labor operations.

(c) Definitions.

(A) Agricultural employer – See universal definition in 4/B, OAR 437-004-0100.

(B) Agricultural establishment – See universal definition in 4/B, OAR 437-004-0100.

(C) Hand labor operation – means agricultural activities or agricultural operations performed by hand or with hand tools, including:

(i) Hand-cultivation, hand-weeding, hand-planting, and hand-harvesting of vegetables, nuts, fruits, seedlings, or other crops (including mushrooms);

(ii) Hand packing or sorting, whether done on the ground, on a moving machine, or in a temporary packing shed in the field; and

(iii) Except for purposes of OAR 437-004-1110(6), operation of vehicles or machinery, when such activity is in conjunction with other hand-labor operators.

(D) Handwashing facility – means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap, and single-use towels.

(E) Potable water – is water meeting the bacteriological and chemical quality requirements in the OAR Chapter 333, Division 61 Public Water Systems, of the Oregon State Health Division.

Note: OAR Chapter 333, Division 61 defines potable water as "Safe Drinking Water – water which has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological, or physical substances so that individuals drinking such water at normal levels of consumption, will not be exposed to disease organisms or other substances that may produce harmful physiological effects."

(F) Toilet facility – means a fixed or portable facility designed for adequate collection and containment of the products of both defecation and urination. Toilet facility includes biological, chemical, flush, and combustion toilets and sanitary privies.

(4) General requirements. Agricultural employers must provide and pay for everything required by this section for employees. Note: This does not preclude the employer from seeking emergency or other funding sources, provided that

the workers incur no costs.

(5) Social distancing officer. Affected agricultural employers must identify one or more individuals who will be responsible for identifying appropriate social distancing and sanitation measures and ensuring that such measures are implemented.

(6) General social distancing requirement. Affected agricultural employers must plan and implement work activities so that workers will not need to be within 6 feet of each other as they perform their duties, during breaks, or during meal periods. In the event that the employer determines and can demonstrate that it is impossible to structure work activities to avoid such contact, contact within 6 feet must be minimized and the employer must implement appropriate additional sanitation and protective measures (including the use of cloth face coverings by the affected employees).

(7) Potable drinking water.

(a) Provide potable water that is available immediately to all employees.

(b) The water must be suitably cool and in sufficient amounts, taking into account the air temperature, humidity, and the nature of the work, to meet the needs of all employees.

(c) Dispense water in single-use drinking cups or by angle jet fountains. Do not use common drinking cups or dippers.

(8) Toilet and handwashing facilities.

(a) Provide one toilet facility and one handwashing facility for each 20 employees or fraction thereof. Effective June 1, 2020, provide one toilet facility and one handwashing facility for each 10 employees or fraction thereof. If the employer can demonstrate that market availability prevents immediate compliance with this provision, the employer must provide as many toilet facilities and handwashing facilities as possible until the ratio has been satisfied.

(b) Toilet facilities must have adequate ventilation, appropriate screens, self-closing doors that close and latch from the inside and ensure privacy.

(c) Maintain privies and portable toilets as follows:

(A) Structures must be free of hazards, in good repair and be stable.

(B) Except for urinals, multiple units must have separate compartments with doors with inside latches to ensure privacy.

(C) Seats must have lids that raise to allow use as urinals, unless there are separate urinals.

(d) Privies and portable toilets must comply with the rules of the Department of Environmental Quality.

(e) Provide toilet facilities for each sex, where practicable. Distinctly mark them "women" and "men" in English and in the native language of employees expected to work in the fields or with easily understood pictures or symbols.

(f) The employer must ensure that for each toilet facility:

(A) There is enough toilet paper to meet the workers' needs during the shift; and

(B) There are toilet paper holders or dispensers for each seat.

(g) Locate toilet and handwashing facilities adjacent to each other at the entrance or exit to the field or in a completely harvested area, whichever is closer. In any case, such facilities must be no more than a 5-minute or a 1/4-mile (1,320 feet) unobstructed walk from each hand laborer's place of work in the field.

(h) Where, due to terrain, it is not feasible to locate facilities as in (g) above, the facilities must be at the point of closest vehicular access.

(9) Maintenance.

(a) Potable drinking water and toilet and handwashing facilities must comply with appropriate public health sanitation practices.

(b) Drinking water containers must be made of materials that maintain water quality. Refill them daily or more often as necessary and keep them covered and clean.

(c) Toilet facilities must work and be clean and safe. Ensure that they are cleaned when necessary and that they are sanitized to mitigate the spread of COVID-19 at least three times daily.

(d) Empty and recharge chemical toilets prior to the start of each season of operation and at least every 6 months thereafter during use or when the tank is three-quarters full, whichever occurs first.

(e) Where crops intended for human consumption are produced, toilets must not contaminate crops.

(f) Refill handwashing facilities with potable water as necessary to ensure an adequate supply and maintain them in a

clean and sanitary condition. Ensure that they are cleaned when necessary and that they are sanitized to mitigate the spread of COVID-19 at least three times daily.

(g) Disposal of wastes from facilities, including handwashing water and towels, must not cause unsanitary conditions or contamination of crops.

(10) Field sanitation notice. Affected employers must post a notice describing the requirements of these rules, including their application to COVID-19 risks, and advising where workers may file complaints regarding field sanitation matters. It must be in the language of the majority of the workers.

(11) Reasonable use.

(a) The employer must notify each employee of the location of the sanitation facilities and water, and allow each employee reasonable opportunities during the workday to use them. The employer must inform each employee of the importance of good hygiene practices to minimize exposure to the hazards in the field from heat, communicable diseases, retention of urine and agrichemical residues, including, but not limited to the following:

(A) Using the water and facilities provided for drinking, handwashing, and elimination;

(B) Drinking water frequently, especially on hot days;

(C) Urinating as frequently as necessary;

(D) Washing hands both before and after using the toilet; and

(E) Washing hands whenever high-contact surfaces have been or will be touched;

(F) Washing hands frequently and after covering a cough or sneeze; and

(G) Washing hands before eating and smoking.

(12) Section 2 Labor Housing and Related Facilities.

(a) Application. 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.

(b) 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.

(c) 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.

(d) 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.

(e) These rules, unless otherwise stated, apply to all occupants of the labor housing and facilities.

(f) 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.

(g) Violations relating to the occupants' personal housekeeping practices in facilities that are not common use will not result in citations to the employer.

(h) For the purposes of OAR 437-004-1120, labor contractors as defined in ORS 658.405 are employers.

(i) These rules do not apply to:

(A) 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.

(i) The hotel/motel facility must be licensed and meet the other requirements in Chapter 333, Division 29, Travelers' Accommodation.

- (ii) 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).
- (iii) Room assignment must ensure privacy and separation for families and to unrelated occupants of different genders.
- (iv) The occupied rooms must continue to receive regular services for cleaning and for the laundry of linens used by guests.
- (v) 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.
- (B) accommodations subject to licensing as manufactured dwelling parks, organizational camps, traveler's accommodations or recreation vehicle parks and open to the general public on the same terms.
- (C) manufactured homes or dwellings being moved regularly from place to place because of the work when at parks or camps meant for parking mobile vehicles and open to the general public on the same terms.
- (j) Charging occupants for required services. Operators may not charge for services required by this rule (OAR 437-004-1120). This prohibits pay-per-use toilets, pay-per-use bathing facilities or any other method of paying for individual service requirements.
- (k) 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.

(I) 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, and

(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 2020 or not, must comply with the requirements of this temporary rule. If necessary, Oregon OSHA will consider expedited housing registration for the 2020 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.

(C) The Director of the Department of Consumer and Business Services or designee may revoke a labor housing and related facilities registration if Oregon OSHA determines that any of the following apply:

(i) The application had any negligent or willful material misrepresentation, or false statement.

(ii) The conditions under which the registration was accepted no longer exist or have changed.

(iii) The housing and related facilities are not substantially in compliance with the applicable safety and health rules.

(m) 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.

(n) 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:

- (A) The signed and dated protest must be submitted in writing and received by the Director before issuance of the registration or renewal.
- (B) The protest must include the name, address and phone number of the individual or group filing it.
- (C) 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.
- (D) 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.
- (E) 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.
- (o) Social distancing officer. Operators of housing covered by this standard must identify one or more individuals who will be responsible for identifying appropriate social distancing and sanitation measures and ensuring that such measures are implemented.
- (p) General social distancing requirement. Affected employers must plan and implement housing operation activities so that workers will not need to be within 6 feet of each other. In the event that the employer determines and can demonstrate that it is impossible to structure activities to avoid such contact, contact within 6 feet must be minimized and the employer must implement appropriate additional sanitation and protective measures (including the use of cloth face coverings when appropriate by the affected employees).
- (q) 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.

Note: This is does not apply to animals owned by the housing occupants.

- (J) Provide electricity to all housing units and related facilities. Subdivision 4/S, Electricity applies to ALH.
- (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) 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.

(i) These containers must be made of impervious non-toxic materials that protect the water from contamination.

(ii) Wash and sanitize them at least every 7 days. Sanitize the spigots and spigot handles at least two times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).

(H) Do not use containers such as barrels, pails or tanks that require dipping or pouring to get the water.

(I) Do not use cups, dippers or other utensils for common drinking purposes.

(J) Do not allow cross connection between a system furnishing water for drinking purposes and a non-potable supply.

(s) 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. Sanitize all high-contact surfaces in common-use facilities, including (but not limited to) door handles, controls and adjustable shower heads at least two times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).

(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.

(t) Bathing facilities.

(A) Provide drains in all showers to remove waste water. Slope floors so they drain. Do not use slippery materials for flooring.

(B) 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.

(C) 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.

(D) 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.

(u) Hand washing facilities.

(A) 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.

(B) In common use facilities, do not use a single common towel. If you provide paper towels, there must be a container for their disposal. Sanitize all high-contact surfaces in common-use facilities, including (but not limited to) door handles, controls and paper towel dispensers at least two times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).

(v) 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. Sanitize all high-contact surfaces in common-use facilities, including (but not limited to) door handles and controls at least two times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).

(w) 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. Effective June 1, 2020, provide one toilet facility for each 10 occupants or fraction thereof. If the operator can demonstrate that market availability prevents immediate compliance with this provision, the operator must provide as many toilet facilities as possible until the ratio has been satisfied.

(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 two times daily 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).

(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.

(i) 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.

(ii) Provide a door or curtain so the toilet compartment is private.

(J) Provide common use toilet facilities with toilet paper and holders or dispensers. Also provide disposal containers with lids.

(K) 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.

(x) Portable toilets, chemical toilets and privies.

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

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

- (C) Portable toilets and privies must have adequate lighting.
- (D) When in use, service portable and chemical toilets at least weekly or often enough to keep them from becoming a health hazard. Clean portable toilets, chemical toilets and privies at least daily. Sanitize such common use facilities at least three times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).
- (y) 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.
- (z) Garbage and refuse disposal outside of buildings.

Note: Recyclable material is not garbage or refuse referred to in this section (15).

- (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. Sanitize all high-contact surfaces in common-use facilities, including (but not limited to) door handles, and handles on portable containers, cans, garbage bins and dumpsters (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).
- (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.
- (G) Dispose of garbage and refuse according to Department of Environmental Quality standards that govern the disposal of garbage, refuse and other solid wastes.
- (aa) 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) 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.
 - (D) 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.
 - (I) 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.
 - (II) 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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) Do not locate stoves so they block escape from a sleeping place.

(E) 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.

(F) 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.

(I) If you provide foam pads, they must be thicker than 2 inches.

(II) Do not provide uncovered foam pads.

(III) Mattresses or pads must not sit on the floor.

(IV) The sleeping surface must be at least 12 inches above the floor.

(G) 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.

(H) Space the beds, bunks or cots so that there is enough room to allow for rapid and safe exiting during an emergency.

Note: Do not count children 2 years old and younger when calculating square footage requirements in paragraphs (i), (j), (k), and (l).

(I) In living areas built after August 1, 1975, where workers cook, live, and sleep, provide at least 100 square feet per occupant.

(J) In living areas built before August 1, 1975, where workers cook, live and sleep, provide at least 60 square feet per occupant.

(K) 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, and do not allow the use of double bunk beds by unrelated individuals. 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 frames in all directions and arranged so that occupants sleep head to toe; OR

(ii) Beds and cots must be separated by a bed length, 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 Oregon OSHA. (l) All agricultural labor housing, where workers cook, live and sleep in the same area, must provide 100 square feet per occupant.

(L) Only areas with a 7 foot ceiling height will count toward the required square footage of any living or sleeping area.

(M) Provide separate private sleeping areas for unrelated persons of each sex and for each family unit.

(N) 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.

(O) Before occupancy clean all living areas and eliminate any rodents, insects, and animal parasites.

(P) Housing operators must provide cleaning materials at no cost, allowing occupants to clean and sanitize their living areas regularly.

(bb) 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.

Note: The housing operator is not responsible for daily maintenance of the detector or the actions of occupants that defeat its function.

(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.

Note: Hoses are acceptable substitutes for extinguishers only if the water supply is constant and reliable. Hoses must be immediately available for firefighting use.

(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.

(i) This window must have an openable space at least 24 inches by 24 inches, nominal.

(ii) The lowest portion of the opening must be less than 48 inches above the floor.

(iii) This window must open directly to the outdoors and be readily openable by the occupants from inside without breaking the glass.

(iv) Label the escape window as an emergency exit.

(E) 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.

Note: Construct and maintain all living areas in labor housing and related facilities to comply with other applicable local and state laws and regulations in effect at the time of construction or remodel.

(F) A second story must have at least two exits when its occupant load is 10 or more. Comply with the Oregon state building code.

(G) 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.

(cc) 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.

Note: Labeled and listed appliances are exempt from the 18-inch requirement when installed according to their listing.

- (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 at least two times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).
- (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) Facilities must be in buildings or shelters. Doors, windows and openings, if any, must have screens of 16 mesh or smaller.
- (dd) 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.

Note: Labeled and listed appliances are exempt from the 18-inch requirement when installed according to their listing.

- (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 at least two times daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action).
- (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. NOTE: Follow Division 4, Agriculture when it differs from the FDA Food Code. The code is available at: <http://www.cfsan.fda.gov/~dms/foodcode.html> or contact the Oregon OSHA Resource Center at 800-922-2689 or in Salem 503-378-3272.

(H) Facilities must be in buildings or shelters. Doors, windows and openings, if any, must have screens of 16 mesh or smaller.

(ee) 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.

Note: Labeled and listed appliances are exempt from the 18-inch requirement when installed according to their listing.

(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.

(ff) 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.

Note: Division 4/K requires all employees know about the first aid requirements and emergency medical plans. If employees' native language is other than English, this must be taken into account in meeting this requirement.

(ii) 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

(1) 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

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

(a) 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.

(b) 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).

(c) 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/ μ l (mm³) or CD4 proportion of total lymphocytes < 14%; hemolytic uremic syndrome.

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

(gg) Implement policies and procedures to identify and isolate sick occupants.

(A) Suspect COVID-19 cases must be isolated with sleeping, eating, and bathroom accommodations that are separate from others. Sick people should be isolated from others, have adequate hygiene facilities, and be taken care of by only one person in the household. If such isolation is not possible, follow guidance provided by the Oregon Health Authority or the local public health authority to make appropriate arrangements.

(B) Confirmed COVID-19 cases must be isolated and only housed with other confirmed cases and must have separate bathroom, cooking and eating facilities from people who have not been diagnosed with COVID-19. Sick people should be isolated from others, have adequate hygiene facilities, and be taken care of by only one person in the household. If such isolation is not possible, follow guidance provided by the Oregon Health Authority or the local public health authority to make appropriate arrangements.

(C) The operator must ensure that food and water is provided and monitor the safety of occupants in isolation at the operator's facility or ensure that these services are provided if isolated at another facility.

(hh) Access to ORS and OAR. Those wishing access to any of the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) referenced here, may contact the Oregon OSHA Resource Center in Salem or the nearest Oregon OSHA Field Office.

(ii) 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.

(13) Section 3: Disease prevention in employer-provided transportation

- (a) During the current emergency and for activities covered by Section 1 of this rule, employers must ensure that the following disease prevention measures are implemented, at a minimum, when transportation is provided to and from the workplace or used to move individuals between workplaces:
- (A) The vehicle operator and any passengers must be separated by at least 3 feet during the operation of the vehicle. Seats that do not allow for such separation cannot be used, regardless of the vehicle's normal capacity.
 - (B) The vehicle operator and any passengers must wear cloth facial coverings that cover their nose and mouth.
 - (C) All high-contact surfaces (door handles, seatbelt buckles, armrests, steering wheel, etc.) must be sanitized before each trip, or at least twice each day when in continuous use.
- (b) For workers who may commute to and from the worksite with individuals outside their household, the employer must advise them of the risks presented by close contact and encourage them to employ practices similar to those described in subsection (1) above.

STATUTORY/OTHER AUTHORITY: ORS 654.025(2), ORS 656.726(4)

STATUTES/OTHER IMPLEMENTED: ORS 654.001- ORS 654.295

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Consumer and Business Services- Oregon OSHA
Agency and Division
Number

437

Administrative Rules Chapter

In the Matter of:

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.):

Rules Addressing the COVID-19 Public Health Emergency in Labor Housing and Agricultural Employment.

Statutory Authority: ORS 654.025(2), ORS 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

Need for the Temporary Rule(s):

These rules are needed to protect vulnerable workers in agriculture, especially those who spend both their working and their off-work hours at the employer's location in an extension of the normal workplace, from the unique health risks created by the current public health emergency.

Documents Relied Upon, and where they are available:

Petition from the Oregon Law Center and Dr. Eva Galvez of the Virginia Garcia Memorial Health Center

Comments received as a result of requesting public comment on the petition- Available through public records request.

News Article from Wenatchee World:

https://www.wenatcheeworld.com/news/coronavirus/36-asymptomatic-stemilt-employees-test-positive-for-covid-19/article_4f0e7e54-840a-11ea-a88c-5f1045c97810.html

Draft Washington State Rule: <https://www.lni.wa.gov/rulemaking-activity/AO20-09/2009DraftLanguage04232020.pdf>

Justification of Temporary Rule(s) (1) Describe the specific consequences that result from the failure to immediately adopt, amend or suspend the rule(s); (2) who would suffer these consequences; (3) why or how failure to immediately take rulemaking action would cause these consequences; (4) how the temporary action will avoid or mitigate those consequences.:

COVID-19 represents a public health crisis throughout the country and the world, as well as in the state of Oregon. In most situations, Oregon OSHA has concluded that the application of general guidance in tandem with the employer's general obligations to provide a safe and healthy workplace for workers provide sufficient, if not ideal, protection. However, the unique exposures created in the agricultural environment, particularly in working situations requiring large numbers of workers, and the unique challenges faced in situations where housing is provided as part of the employment relationship, create a unique set of issues, presenting not only an increased risk to individual workers, but also providing the potential for further contagion as the state begins its return to a more normal working environment. A failure to adopt rules immediately would subject these workers, who live in particularly vulnerable situations and who are faced with greater-than-normal obstacles to effective health care, to a heightened risk of serious illness – and even death -- due to COVID-19. Oregon has concluded that existing requirements provide insufficient protection, and cannot

be expected to provide sufficient protection throughout the current public health crisis, since no rules could be adopted in the normal course of events until well after the current season's harvests have been completed. These temporary rules will provide increased minimum standards related to sanitation, toilet and handwashing facilities, and social distancing that will serve to mitigate – although not fully resolve – the increased risks faced by the working population in labor camps and throughout agriculture.

 *Michael D. Wood* 4/28/2020
Authorized Signer Printed name Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 945-2005