



Oregon

Kate Brown, Governor

Department of Consumer and Business Services
Oregon Occupational Safety & Health Division (Oregon OSHA)
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osha.oregon.gov

April 13, 2022

[Text of changes](#)

Adjusted Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing

Due to rapidly declining COVID-19 cases and hospitalizations, Oregon OSHA is making substantive changes to OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing to remove provisions no longer appropriate to this stage of the pandemic. These changes are in response to Governor Brown's announcement of updated health guidance on February 28, 2022 and direction from the Oregon Health Authority (OHA).

Major changes include the removal of several sections of the rule, including (3) Ventilation, (5) Physical distancing monitor, (7) Cleaning and sanitation, and (9) Non-employer-provided transportation for labor housing. In addition, the (2) Definitions section is greatly simplified.

Oregon OSHA no longer requires the Air Purification Method or the Capacity Reduction Method for calculating square footage for spaces where people sleep. However, if air purifiers were provided by the owner or operator as part of this provision, occupants must be allowed to continue to use the air purifier at no cost including the maintenance of the equipment. If occupants choose to use their own air purifier, they must be allowed to do so but they are responsible for the maintenance of it.

As was the case before these adjustments, the rule maintains language that an employee who chooses to wear a mask, face shield, or face covering, even when it is not required, must be allowed to do so.

These adjustments represent a significant removal of COVID-19 requirements, and are a major step forward towards the full repeal of the rule. As stated in the rule, Oregon OSHA will repeal the rule when it is no longer necessary to address the COVID-19 pandemic. Because it is not possible to assign a specific time for that decision, Oregon OSHA will consult with the Oregon OSHA Partnership Committee, the Oregon Health Authority, and other stakeholders as circumstances change to determine when all or parts of the rule can be appropriately repealed.

Please visit our website osha.oregon.gov/rules to view our adopted rules, or select other rule activity from this page.

This is Oregon OSHA Temporary Administrative Order 2-2022, adopted and effective April 13, 2022.

Oregon OSHA contact: Sarah Rew, Salem Central Office @ 503-378-3272, or email at sarah.c.rew@dcbs.oregon.gov.

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.

OFFICE OF THE SECRETARY OF STATE
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SECRETARY OF STATE

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DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
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SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OSHA 2-2022

CHAPTER 437

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION

FILED

04/13/2022 11:07 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adjusted Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing

EFFECTIVE DATE: 04/13/2022 THROUGH 10/09/2022

AGENCY APPROVED DATE: 04/13/2022

CONTACT: Lisa Appel
503-947-7449
Lisa.Appel@dcbs.oregon.gov

350 Winter Street NE
Salem, OR 97301

Filed By:
Lisa Appel
Rules Coordinator

NEED FOR THE RULE(S):

Due to rapidly declining COVID-19 cases and hospitalizations, Oregon OSHA is making substantive changes to OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing to remove provisions no longer appropriate to this stage of the pandemic. These changes are in response to Governor Brown's announcement of updated health guidance on February 28, 2022 and direction from the Oregon Health Authority (OHA).

As of March 11, 2022, COVID-19 infections have dropped 94% since the peak of the Omicron surge and hospitalizations have lowered to pre-Omicron levels. Given the lower rates, there is a need to align OSHA's rules with the revised public health guidance from OHA. As such, the rule is being temporarily amended to have immediate effect. Some provisions remain in place to keep labor-housing occupants protected in the current stage of the pandemic.

Major changes include the removal of several sections of the rule, including (3) Ventilation, (5) Physical distancing monitor, (7) Cleaning and sanitation, and (9) Non-employer-provided transportation for labor housing. In addition, the (2) Definitions section is greatly simplified.

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JUSTIFICATION OF TEMPORARY FILING:

If Oregon OSHA does not pursue temporary amendments to Rules Addressing the COVID-19 Workplace Requirements

for Employer-Provided Labor Housing, this rule will not align with Governor Brown's and Oregon Health Authority's revised COVID-19 guidance. If Oregon OSHA does not make these changes, businesses and organizations will see conflicting guidance between agencies and the executive branch, which could cause confusion given the current status of the COVID-19 pandemic. Additionally, leaving the capacity restrictions in place would limit the number of occupants in the housing and potentially contribute to existing worker shortages. By amending the rules to align with Oregon Health Authority and Governor Brown, Oregon OSHA will prevent conflicting guidance and stakeholder confusion on which rules must be currently followed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

State of Oregon Newsroom Governor's Office - Governors Brown, Newsom, and Inslee Announce Updated Health Guidance:
<https://www.oregon.gov/newsroom/Pages/NewsDetail.aspx?newsid=64916>

Oregon Health Authority – Public health order rescinding general indoor masking requirements:
<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le41411.pdf>

Oregon Health Authority – COVID-19 Isolation Guidance for the General Population:
<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2351T.pdf>

Oregon Health Authority – Public Health Recommendations: Wearing Masks, Face Coverings and Face Shields and Physically Distancing:
https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288k_r.pdf

Oregon Health Authority – Novel Coronavirus Disease 2019 (COVID-19) Interim Investigative Guidelines:
<https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/COMMUNICABLEDISEASE/REPORTINGCOMMUNICABLEDISEASES/Coronavirus-2019.pdf>

Oregon Health Authority press release – OHA 'RISE' plan launches state's pandemic resilience phase:
<https://content.govdelivery.com/accounts/ORDHS/bulletins/30e79a2>

HOUSING IMPACT STATEMENT:

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534) FOR ADMINISTRATIVE RULES

Description of proposed change:

See attached Statement of Need and Justification and Certificate and Order for Filing.

Description of the need for, and objectives of the rule:

See attached Statement of Need and Justification and Certificate and Order for Filing.

List of rules adopted or amended:

AMEND: OAR 437-004-1115

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.

*Typical-Single story 3 bedrooms, 1 1/2 bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

AMEND: 437-004-1115

RULE TITLE: COVID-19 Workplace Requirements for Employer-Provided Labor Housing

RULE SUMMARY: Due to rapidly declining COVID-19 cases and hospitalizations, Oregon OSHA is making substantive changes to OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing to remove provisions no longer appropriate to this stage of the pandemic. These changes are in response to Governor Brown's announcement of updated health guidance on February 28, 2022 and direction from the Oregon Health Authority (OHA).

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RULE TEXT:

Note: Oregon OSHA's temporary rule addressing COVID-19 in employer-provided labor housing expired on October

24, 2020, 180 days after its adoption. Under the Oregon Administrative Procedures Act, a temporary rule cannot be renewed or extended beyond 180 days. Therefore, Governor Brown issued an Executive Order 20-58 extending the requirements of employer-provided labor housing of the temporary rule. The Executive Order expired on April 30, 2021. In order to extend protections for workers against COVID-19, which remains a significant concern, Oregon OSHA adopted this rule following the normal process for permanent rulemaking. However, the purpose of this rule is to address the COVID-19 pandemic in employer-provided housing in Oregon. Oregon OSHA will repeal the rule when it is no longer necessary to address that pandemic. Because it is not possible to assign a specific time for that decision, Oregon OSHA will consult with the Oregon OSHA Partnership Committee, the Oregon Health Authority, and other stakeholders as circumstances change to determine when all or parts of the rule can be appropriately repealed. The first of these discussions took place in June 2021, and they will continue every month until the rule has been repealed. In making determinations about when to repeal all or parts of the rule, Oregon OSHA and its stakeholders will consider indicators and other information such as (but not limited to) Executive Orders issued by the Governor, guidance issued by the Oregon Health Authority (OHA) and the Centers for Disease Control, infection rates (including the rate of spread of COVID-19 variants), positivity rates, and vaccination rates, as well as indicators of severity such as hospitalizations and fatalities.

(1) Scope and application.

(a) This rule applies to all employer-provided labor housing and other employer-provided housing, whether such housing is otherwise currently covered by OAR 437-004-1120 "Agricultural Labor Housing and Related Facilities" or by 29 CFR 1910.142 and OAR 437-002-0142 "Labor Camps." To the degree an actual conflict exists between the two rules, this rule takes precedence. To the degree that this rule does not address an issue, or no actual conflict exists, the requirements of the preexisting rule also apply. The requirements of this rule 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. The requirements of this rule supersede those contained in section 3 of OAR 437-001-0744 (COVID-19 Requirements for All Workplaces), specifically as they relate to ventilation, facial coverings, physical distancing measures, and sanitation. All other applicable requirements of OAR 437-001-0744 remain in effect.

(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 of an agricultural employer as defined in OAR 437-004-0001. 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), which 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) 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.

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

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

(j) Charging occupants for required services. Operators must not charge for services required by these rules: OAR 437-004-1120, OAR 437-001-0744, and OAR 437-004-1115. This prohibits pay-per-use toilets, pay-per-use bathing facilities, payment for use of air purifiers, or any other method of paying for individual service requirements.

(k) This rule does 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 COVID-19 public health 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 or motel facility must be licensed and meet the other requirements in OAR 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 preexisting kitchenette or other food preparation facility does not trigger the square footage requirements of the rule.

(B) Accommodations subject to licensing such as manufactured dwelling parks, organizational camps, travelers' 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.

(2) Definitions.

(a) Air purifier – means a HEPA-filter equipped device that is designed for and capable of removing aerosols (including airborne droplets and solid particles) from the air through physical or chemical means and that is capable of improving the indoor air quality in areas where such purifiers are properly operated.

(b) High-efficiency particulate air (HEPA) filter – means a filter that is at least 99.97 percent efficient in removing monodisperse particles of 0.3 micrometers (μm) in diameter.

(3) Masks, face Coverings, and face shields. Oregon OSHA no longer requires employers to ensure that individuals in the labor housing wear a mask, face covering, or face shield as source control.

(a) If an employee chooses to wear a mask, face shield, or face covering even when not required, the employer must allow them to do so.

(b) When an employee chooses to wear a filtering facepiece respirator to protect against COVID-19, the employer must allow that use and follow the "voluntary use" provisions of the Respiratory Protection Standard (OAR 437-004-1041 or 29 CFR 1910.134).

(4) Special housing capacity measures. Operators and owners of employer-provided housing must comply with the provisions of (4)(a) and (4)(b). Oregon OSHA no longer requires the air purification method or the reduced capacity method to be followed in employer-provided housing. The occupancy requirements revert to the provisions in OAR 437-004-1120(15) for sleeping rooms or rooms where occupants cook, live, and sleep.

(a) For air purifiers provided by the owner or operator, allow occupants to continue to use them and maintain the equipment at no cost.

(b) For air purifiers provided by the occupant, allow occupants to use them at no cost.

(5) COVID-19 response plan.

(a) In order to identify individuals known or suspected to be infected with COVID-19, all housing providers covered by this rule must take the following steps:

(A) Suspect COVID-19 cases should be encouraged to seek advice by telephone or similar mobile devices from a healthcare provider to determine whether further in-person medical evaluation is needed;

(B) Suspect COVID-19 cases must be isolated with sleeping, eating, and bathroom accommodations that are separate from non-isolating occupants. COVID-19 infected individuals must 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, the employer must follow the Oregon Health Authority recommendations for Isolation and Quarantine Guidance; and

(C) If able, occupants known or suspected to be infected with COVID-19 must clean and disinfect their own sleeping, eating, or bathroom accommodations after each use.

(b) Confirmed COVID-19 infected persons must be isolated and only housed with other confirmed cases. Isolated persons must have separate bathroom, cooking and eating facilities separate 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.

(A) If able, occupants confirmed to have COVID-19 must clean and disinfect their own sleeping, eating, or bathroom accommodations after each use.

(B) 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.

(c) 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.

(d) Instruct occupants that if they are sick or have COVID-19 symptoms, they must alert their housing operator as soon as possible.

STATUTORY/OTHER AUTHORITY: ORS 654.025(2), 654.035, 656.726(4)

STATUTES/OTHER IMPLEMENTED: 654.001 through 654.295

Secretary of State
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

437-004-1115
Administrative Rules Chapter Number

In the Matter of:

Amending OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing.

Rule Caption:

Adjusted Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing.
(Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Statutory Authority: ORS 654.025(2), 654.035, 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

Need for the Temporary Rule(s):

Due to rapidly declining COVID-19 cases and hospitalizations, Oregon OSHA is making substantive changes to OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing to remove provisions no longer appropriate to this stage of the pandemic. These changes are in response to Governor Brown's announcement of updated health guidance on February 28, 2022 and direction from the Oregon Health Authority (OHA).

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Documents Relied Upon, and where they are available:

State of Oregon Newsroom Governor's Office - Governors Brown, Newsom, and Inslee Announce Updated Health Guidance:
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Oregon Health Authority – Public health order rescinding general indoor masking requirements:
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Oregon Health Authority – COVID-19 Isolation Guidance for the General Population:
<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2351T.pdf>

Oregon Health Authority – Public Health Recommendations: Wearing Masks, Face Coverings and Face Shields and Physically Distancing:

https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288k_r.pdf

Oregon Health Authority – Novel Coronavirus Disease 2019 (COVID-19) Interim Investigative Guidelines:

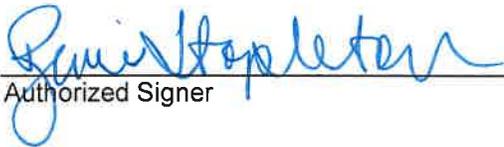
<https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/COMMUNICABLEDISEASE/REPORTINGCOMMUNICABLEDISEASE/REPORTINGGUIDELINES/Documents/Novel-Coronavirus-2019.pdf>

Oregon Health Authority press release – OHA 'RISE' plan launches state's pandemic resilience phase:

<https://content.govdelivery.com/accounts/ORDHS/bulletins/30e79a2>

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.:

If Oregon OSHA does not pursue temporary amendments to Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing, this rule will not align with Governor Brown's and Oregon Health Authority's revised COVID-19 guidance. If Oregon OSHA does not make these changes, businesses and organizations will see conflicting guidance between agencies and the executive branch, which could cause confusion given the current status of the COVID-19 pandemic. Additionally, leaving the capacity restrictions in place would limit the number of occupants in the housing and potentially contribute to existing worker shortages. By amending the rules to align with Oregon Health Authority and Governor Brown, Oregon OSHA will prevent conflicting guidance and stakeholder confusion on which rules must be currently followed.



Authorized Signer

Renee Stapleton

Printed name

4/13/22

Date

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

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

4/13/2022 by the
Date prior to or same as filing date

Department of Consumer and Business Services- Oregon OSHA 437-004-1115
Agency and Division Administrative Rules Chapter Number

Lisa Appel 350 Winter St NE, Salem, OR 97301 503-947-7449
Rules Coordinator Address Telephone

to become effective 4/13/2022 through 10/9/2022.
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Adjusted Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing.
(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

AMEND: OAR 437-004-1115

Stat. Auth.: ORS 654.025(2)

Other Auth.: 654.035, 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

RULE SUMMARY

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4/13/22
Date

HOUSING COST IMPACT STATEMENT

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A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)
FOR ADMINISTRATIVE RULES

AGENCY NAME: DCBS/Oregon OSHA **PERMANENT:** **HEARING DATE:**

ADDRESS: 350 Winter Street NE
CITY/STATE: Salem OR 97301-3882 **TEMPORARY:** XX **EFFECTIVE DATE:** April 13, 2022
PHONE: 503-947-7449

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.

IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

See attached Statement of Need and Justification and Certificate and Order for Filing.

Description of the need for, and objectives of the rule:

See attached Statement of Need and Justification and Certificate and Order for Filing.

List of rules adopted or amended:

AMEND: OAR 437-004-1115

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PREPARERS NAME: Lisa Appel
EMAIL ADDRESS: Lisa.Appel@dcbs.oregon.gov

