



Oregon

Kate Brown, Governor

Department of Consumer and Business Services
Oregon Occupational Safety & Health Division (Oregon OSHA)
350 Winter Street NE, PO Box 14480, Salem, OR 97309-0405
Phone: 503-378-3272, Toll Free: 1-800-922-2689, Fax: 503-947-7461
osha.oregon.gov

October 11, 2021

[Text of changes](#)

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

Due to the COVID-19 pandemic and in-line with public health recommendations, the hearings will be held virtually. Oregon OSHA offices remain closed to the public.

Virtual Public Hearings Scheduled for:

Date

Time

November, 15 2021

5:00 pm

Please register for Amending Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing on Nov 15, 2021 5:00 PM PST at: <https://attendee.gotowebinar.com/register/3457486199724736015>

November 16, 2021

5:00 pm

*** This hearing will be conducted primarily in Spanish.***

Please register for Spanish-Only Amending Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing on Nov 16, 2021 5:00 PM PST at: <https://attendee.gotowebinar.com/register/7812738618764082703>

November 17, 2021

10:00 am

Please register for Amending Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing on Nov 17, 2021 10:00 AM PST at: <https://attendee.gotowebinar.com/register/5058204705839008271>

After registering for a webinar, you will receive a confirmation email containing information about joining the webinar. In order to ensure as many people as possible are able to testify, Oregon OSHA reserves the right to restrict testimony to no more than 5 minutes.

Rule Summary:

This rule protects vulnerable workers in employer-provided labor housing from the current COVID-19 public health emergency, which has not abated in 2021. The unique exposures created in the labor housing environment, particularly in working situations requiring large numbers of workers, make this rule necessary to reduce risk. Many workers face unique challenges in situations where housing is provided as part of the employment relationship. It is within this public health context that Oregon OSHA is proposing to make permanent amendments to the OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing.

This rule was first promulgated as Oregon OSHA's temporary rule OAR 437-001-0749: COVID-19 Public Health Emergency in Labor Housing and Agricultural Employment ([AO 2-2020](#)), which subsequently expired on October 24, 2020. On October 23, 2020, Governor Brown issued an Executive Order ([20-58](#)) extending employer-provided housing requirements (Section 2) of OAR 437-001-0749. Oregon OSHA then engaged in rulemaking activities and adopted a permanent rule on April 30, 2021 ([AO 1-2021](#)). On June 30, 2021, Oregon OSHA filed a temporary amendment to the rule ([AO 4-2021](#)), which updated its requirements to better align with current information concerning COVID-19 transmission.

As the temporary amendments are set to expire, this rulemaking is necessary to make adjustments that achieve the rule's goal of protecting vulnerable workers in the least burdensome manner possible – otherwise, the rule will revert to its original April 30, 2021 requirements.

Major changes in this rulemaking include the removal of facial covering requirements while in the labor-housing home environment. The rule adds 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. In addition, language was added to allow an employee who chooses to wear a filtering facepiece respirator under the provisions for voluntary-use in the Respiratory Protection Standard the ability to do so. Physical distancing monitors are no longer required and physical distancing is no longer required in dining areas or at mealtimes. The rule retains the "Air Purification Method" and the "Additional Capacity Reduction Method" for calculating square footage for spaces where people sleep. Lastly, transportation provisions are no longer required.

As stated in previous public communications, it is Oregon OSHA's intent to repeal all or parts of this rule once they are no longer necessary to address the COVID-19 pandemic in Oregon workplaces. Discussions on the appropriate policy response will continue via on-going meetings with the Oregon OSHA Partnership Committee, the Oregon Health Authority, the general workplace Infectious Disease Rulemaking Advisory Committee, and other stakeholders.

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

When does this happen: Adoption tentatively will be in December 2021.

To get a copy: Our web site – osha.oregon.gov Rules and laws, then,
Proposed rules
Or call 503-947-7449

To comment: Department of Consumer and Business Services/
Oregon OSHA
PO BOX 14480
Salem OR 97309-0405
Email – osha.rulemaking@dcbs.oregon.gov
Fax – 503-947-7461

Comment period closes: November 29, 2021

Oregon OSHA contact: Matthew Kaiser, Salem Central Office @ 503-378-3272, or
email at Matthew.C.Kaiser@oregon.gov.

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

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

Lisa Appel
Rules Coordinator

350 Winter Street NE Salem OR 97301-3882
Address

503-947-7449
Telephone

RULE CAPTION

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

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Virtual Public Hearings Scheduled for:

Hearing Date	Time	Location	Hearings Officer
November, 15 2021	5:00 pm	Oregon OSHA, Salem	Lisa Appel
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November 16, 2021	5:00 pm	Oregon OSHA, Salem	Lisa Appel
*** This hearing will be conducted primarily in Spanish.*** Please register for Spanish-Only Amending Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing on Nov 16, 2021 5:00 PM PST at: https://attendee.gotowebinar.com/register/7812738618764082703			
November 17, 2021	10:00 am	Oregon OSHA, Salem	Lisa Appel
Please register for Amending Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing on Nov 17, 2021 10:00 AM PST at: https://attendee.gotowebinar.com/register/5058204705839008271			

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Amend: OAR 437-004-1115

ORS 654.025(2), 654.035 and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULEMAKING SUMMARY

INDIVIDUAL RULE SUMMARY (By rule number)

Provide a brief summary of the rule (if new adoption), or a brief summary of changes made to the rule (if amending)

OAR 437-004-1115

This rule protects vulnerable workers in employer-provided labor housing from the current COVID-19 public health emergency, which has not abated in 2021. The unique exposures created in the labor housing environment, particularly in working situations requiring large numbers of workers, make this rule necessary to reduce risk. Many workers face unique challenges in situations where housing is provided as part of the employment relationship. It is within this public health context that Oregon OSHA is proposing to make permanent amendments to the OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing.

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Major changes in this rulemaking include the removal of facial covering requirements while in the labor-housing home environment. The rule adds 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. In addition, language was added to allow an employee who chooses to wear a filtering facepiece respirator under the provisions for voluntary-use in the Respiratory Protection Standard the ability to do so. Physical distancing monitors are no longer required and physical distancing is no longer required in dining areas or at mealtimes. The rule retains the "Air Purification Method" and the "Additional Capacity Reduction Method" for calculating square footage for spaces where people sleep. Lastly, transportation provisions are no longer required.

As stated in previous public communications, it is Oregon OSHA's intent to repeal all or parts of this rule once they are no longer necessary to address the COVID-19 pandemic in Oregon workplaces. Discussions on the appropriate policy response will continue via on-going meetings with the Oregon OSHA Partnership Committee, the Oregon Health Authority, the general workplace Infectious Disease Rulemaking Advisory Committee, and other stakeholders.

November 29, 2021

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Signature

Printed name

Date

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/Oregon OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

In the Matter of:

Adopting:

Amending: OAR 437-004-1115

Repealing:

Rule Caption: Amending Rules Addressing the COVID-19 Workplace Requirements for Employer-Provided Labor Housing

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

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s):

This rulemaking is necessary to make adjustments that achieve the rule's goal of protecting vulnerable workers in the least burdensome manner possible.

Documents Relied Upon, and where they are available:

Oregon Health Authority's data dashboards: Oregon's COVID-19 Update and Oregon COVID-19 Vaccine Daily Update, both can be accessed through: <https://govstatus.egov.com/OR-OHA-COVID-19>

Agriculture Workers and Employers: Interim COVID-19 Guidance from CDC and the U.S. Department of Labor: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-agricultural-workers.html>

State of Oregon news release June 25, 2021: Governor Kate Brown Announces Oregon to Reopen no Later Than Wednesday, June 30, available at: <https://www.oregon.gov/newsroom/Pages/NewsDetail.aspx?newsid=64005>

Fiscal and Economic Impact:

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

All state agencies and local government units are affected by the rules in the sense that they are employers under the Oregon Safe Employment Act (OSEAct).

This rule affects the agricultural community, as well all other labor housing operators that are not related to agriculture based on OAR 437-002-0142 Temporary Labor Camps. This rule out of Division 2 applies to General Industry, Construction, and Forest Activities and it requires employers to follow the Division 4 requirements (with a few specific exceptions) as they relate to labor camps.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

As of 2021, there are approximately 363 registered operators of employer-provided labor housing with Oregon OSHA.

More broadly, according to the U.S. Small Business Association economic profile for Oregon in 2021, there are approximately 1,354 “small businesses,” (firms with 500 or fewer employees) engaged in “Agriculture, Forestry, Fishing and Hunting,” industry in Oregon. However, it is likely that only a small percentage the 1,354 identified firms will have labor housing occupants; therefore, that number is expected to be an overestimation of the number of “small businesses” impacted by this particular employer-provided labor housing rulemaking.

Reference: <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30143123/Small-Business-Economic-Profile-OR.pdf>

In the proposed amendments, the agency recognizes that the elimination of facial covering requirements and certain physical distancing measures will have a positive fiscal impact on the cost of compliance for operators of employer-provided labor housing.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed amendments will not increase reporting, recordkeeping or other administrative activity costs for compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed amendments will not increase equipment, supplies, labor or increased administration costs for compliance.

How were small businesses involved in the development of this rule?

Small businesses and others were involved in the development of this rule insofar as their representatives were represented on the COVID-19 Employer Provided Labor Housing Rulemaking Committee and other Oregon OSHA stakeholder groups consulted prior to the April 30, 2021 adoption of the permanent rule. They would also have had the opportunity to provide public comment on the “Petition to Amend 437-004-1120 Agricultural Labor Housing and Related Facilities in response to the COVID-19 temporary rule 437-001-0749 extended by Executive Order 20-58”; comments on this petition included feedback from small businesses.

Additionally, small businesses provided input on this rule insofar as their representatives were represented on the Infectious Disease Rules Advisory Committee for General Workplaces, Oregon OSHA Partnership Committee, and other Oregon OSHA stakeholder groups. These groups continue to help inform the agency’s overall COVID-19 policy response.

Administrative Rule Advisory Committee consulted?

Yes, Oregon OSHA has continued engagement with the Infectious Disease Rulemaking Advisory Committee (RAC) for general workplaces in relation to the agency’s overall COVID-19 policy response. Oregon OSHA has publicly committed to regular discussions with the Oregon OSHA Partnership Committee, the Oregon Health Authority, the two Infectious Disease Rulemaking Advisory Committees, and other stakeholders to determine when all or additional parts of the COVID-19 rules can be appropriately repealed. In accordance, RAC meetings for general workplaces were convened three times in between June and August 2021. Oregon OSHA has consulted stakeholders for feedback on how to modify rules as the COVID-19 public health emergency has evolved. Comments were accepted during meetings and through emails throughout the stakeholder

engagement process. This feedback has informed the proposed amendments to OAR 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing.

If not, why?:



Signature

Julie Love

Printed name

10/11/2021

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

HOUSING COST 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

AGENCY NAME: DCBS/Oregon OSHA **PERMANENT:** XX **HEARING DATE:** 11/12, 11/15, 11/16
2021
ADDRESS: 350 Winter Street NE
CITY/STATE: Salem OR 97301-3882 **TEMPORARY:** **EFFECTIVE DATE:** December 2021
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 Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

Description of the need for, and objectives of the rule:
See attached Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

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.

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

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 437
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION

FILED
10/11/2021 4:29 PM
ARCHIVES DIVISION
SECRETARY OF STATE

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

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/29/2021 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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

350 Winter Street NE
Salem, OR 97301

Filed By:
Lisa Appel
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/15/2021
TIME: 5:00 PM - 7:00 PM
OFFICER: Lisa Appel
ADDRESS: Virtual Hearing
350 Winter Street NE
Salem, OR 97301-3882
SPECIAL INSTRUCTIONS:
Please find registration information
under Need for the Rule.

DATE: 11/16/2021
TIME: 5:00 PM - 7:00 PM
OFFICER: Lisa Appel
ADDRESS: Virtual Hearing
350 Winter Street NE
Salem, OR 97301-3882
SPECIAL INSTRUCTIONS:
This hearing will be conducted in
Spanish. Please find registration
information under Need for the Rule.

DATE: 11/17/2021
TIME: 10:00 AM - 12:00 PM
OFFICER: Lisa Appel
ADDRESS: Virtual Hearing
350 Winter Street NE
Salem, OR 97301-3882
SPECIAL INSTRUCTIONS:
Please find registration information
under Need for the Rule.

NEED FOR THE RULE(S):

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

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FISCAL AND ECONOMIC IMPACT:

See the impacts to the general public under the Cost of Compliance.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

All state agencies and local government units are affected by the rules in the sense that they are employers under the Oregon Safe Employment Act (OSEAct).

This rule affects the agricultural community, as well all other labor housing operators that are not related to agriculture based on OAR 437-002-0142 Temporary Labor Camps. This rule out of Division 2 applies to General Industry, Construction, and Forest Activities and it requires employers to follow the Division 4 requirements (with a few specific exceptions) as they relate to labor camps.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

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In the proposed amendments, the agency recognizes that the elimination of facial covering requirements and certain physical distancing measures will have a positive fiscal impact on the cost of compliance for operators of employer-provided labor housing.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed amendments will not increase reporting, recordkeeping or other administrative activity costs for compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed amendments will not increase equipment, supplies, labor or increased administration costs for compliance.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses and others were involved in the development of this rule insofar as their representatives were represented on the COVID-19 Employer Provided Labor Housing Rulemaking Committee and other Oregon OSHA stakeholder groups consulted prior to the April 30, 2021 adoption of the permanent rule. They would also have had the opportunity to provide public comment on the “Petition to Amend 437-004-1120 Agricultural Labor Housing and Related Facilities in response to the COVID-19 temporary rule 437-001-0749 extended by Executive Order 20-58”; comments on this petition included feedback from small businesses.

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HOUSING IMPACT STATEMENT:

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Description of proposed change:

See attached Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

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List of rules adopted or amended:

AMEND: OAR 437-004-1115

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None.

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Oregon OSHA does not foresee any effect on land costs.

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*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 SUMMARY: This rule protects vulnerable workers in employer-provided labor housing from the current COVID-19 public health emergency, which has not abated in 2021. The unique exposures created in the labor housing environment, particularly in working situations requiring large numbers of workers, make this rule necessary to reduce risk. Many workers face unique challenges in situations where housing is provided as part of the employment relationship. It is within this public health context that Oregon OSHA is proposing to make permanent amendments to

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

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CHANGES TO RULE:

437-004-1115

COVID-19 Workplace Requirements for Employer-Provided Labor Housing

Note: Unless otherwise indicated, the rule's provisions take effect April 30, 2021, and remain in effect until revised or repealed.¶

Note: Oregon OSHA's temporary rule addressing COVID-19 in employer-provided labor housing expired on October 24, 2021, 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 ~~will expire~~ 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 ~~will take place no later than~~ took place in July 2021, and they will continue every ~~two~~ months 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 of ~~Subsections (3)(b), (3)(c) and (3)(f) contained in section 3 of OAR 437-001-0744 (COVID-19 Requirements for All Workplaces), unless specifically as otherwise referenced. All other provisions~~ relate to ventilation, facial coverings, physical distancing measures, and sanitation. All other applicable requirements of OAR 437-001-0744 apply 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 (0.3µm) in diameter. ¶

(c) Common area - means building lobbies, reception areas, waiting rooms, restrooms, break rooms, eating areas, smoking areas, locker rooms, bathing areas, transit lounges, conference rooms, or other locations indoors or outdoors that multiple individuals may use or congregate that employers operate or control. ¶

(d) High-touch surface - means equipment or surfaces that are handled frequently throughout the day by multiple individuals. High-touch surfaces can include, but are not limited to, countertops, tabletops, credit card terminals, doorknobs, door handles, digital kiosks, touch-screen enabled devices, light switches, handrails, elevator control panels, and steering wheels in work vehicles. ¶

(e) Household - means a group of persons who lived in the same residence prior to arriving at the employer-provided housing. Households may have unrelated individuals or families living together or may be a family unit. ¶

(f) Shared equipment - means devices or tools that are used by multiple employees or other individuals including, but not limited to, computers, phones, and work vehicles. ¶

(3) Ventilation. ¶

Ensure that existing ventilation systems are optimized in accordance with subsection OAR 437-001-0744(3)(f). Additionally, employers must increase air circulation and ventilation by opening windows and doors in labor housing when doing so is safe for the occupants in regards to weather conditions (hot or cold), pesticide application, and other potential hazards. Fans should be used indoors only when windows or doors are open to the outdoors in order to circulate indoor and outdoor air. Do not open windows and doors if doing so poses a safety risk to employees. ¶

Note: The use of portable ventilation units or air purifying devices equipped with HEPA filters is required when used in conjunction with "Air Purification Method" of Table 1, to provide additional air flow in housing. ¶

(4) Masks, Face Coverings, and Face Shields. ¶

~~To reduce the risk of COVID-19 transmission, all persons at the labor housing must use a mask, face covering, or face shield in accordance with the Oregon Health Authority's Statewide Mask, Face Covering, Face Shield Guidance. Facial coverings must be used in accordance with the provisions of this rule below. The following specific modifications apply within housing facilities regard~~Oregon OSHA no longer requires employers to ensure

~~that individuals using the use of facial coverings.~~

~~(a) All persons entering the housing facility, including all common areas, must wear a mask, face shield, or face covering in accordance with Oregon Health Authority Statewide Mask, Face Covering, Face Shield Guidance, except:~~

~~(A) During mealtimes when eating or drinking; covering, or face shield as source control.~~

~~(Ba) When sleeping in their bed or cot;~~

~~(C) When engaged in an activity that makes wearing of a mask, face covering, or face shield not feasible, such as during teeth brushing or bathing;~~

~~(D) In a housing unit or area occupied solely by members of the same family or household; or~~

~~(E) When the person is less than five years of age.~~

~~(b) Operators must ensure that all occupants of employer-provided labor housing have access to or are in possession of adequate masks, face shields, or face coverings -- including enough masks, face shields, or face coverings to allow employees to "double mask" -- without cost to the occupants.~~

~~Note: In accordance with Oregon Health Authority Statewide Mask, Face Covering, Face Shield Guidance and subsection (3)(b) of OAR 437-001-0744, it is strongly recommended, but not required, that individuals wear a mask or face covering as source control instead of a face shield alone.~~

~~Note: Although current OHA mask guidance currently exempts the wearing of facial coverings for occupants while in their own private home, such an exemption does not apply in labor housing unless the housing unit or area is occupied solely by members of the same family or household, 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).~~

~~(5) Physical distancing monitor.~~

~~Oregon OSHA no longer requires operators to identify one or more individuals who will be responsible for identifying appropriate physical distancing and sanitation measures and ensuring that such measures are implemented. Affected employers must abide by the physical distancing rule in OAR 437-001-0744(3)(a).~~

~~(6) Physical distancing measures.~~

~~To ensure appropriate physical distancing, as a physical distancing monitor.~~

~~(6) Special housing capacity measures. Labor housing facilities must implement appropriate physical distancing measures as required by this rule for property under their control. Operators must ensure:~~

~~(a) Operators of employer-provided labor housing must select either the "Air Purification Method", or the "Additional Capacity Reduction Method" described below.~~

~~(Aa) Air Purification Method:~~

~~(iA) Operators must ensure at least six-foot distancing from center point of a single-occupant bed.~~

~~(iiB) Sleeping Rooms:~~

~~(i) Individuals in each sleeping room using double bunk beds where all occupants in the room are part of the same household or are related must have at least 40 square feet of floor space per occupant; or~~

~~(ii) Use of both beds in a double bunk bed must not be allowed for individuals who are neither related nor part of the same household. In each sleeping room where one or more persons are neither related to nor part of the same household as one or more other occupants, all occupants must be provided at least 50 square feet of floor space per occupant.~~

~~(iii) Operators must provide air purifiers for each room where people sleep, whether in dedicated sleeping rooms or in rooms where occupants cook, sleep, and live. Air Purifiers must meet the following requirements:~~

~~(I) Must have a Change AADR (clean air Delivery Rate (CADR) sufficient enough to provide four Air Changes per Hour (ACH); and~~

~~(II) Must not produce ozone either as a byproduct or as the primary method of cleaning the air.~~

~~(Bb) Additional Capacity Reduction Method:~~

~~(iA) Beds and cots must be spaced at least six feet apart between frames in all directions, and arranged so that~~

occupants in the beds alternate from head to toe. ¶

(#B) Sleeping Rooms: ¶

(i) Individuals in each sleeping room not using double bunk beds where all occupants in the room are members of the same household or are related must be provided at least 50 square feet of floor space per occupant; or ¶

(ii) Individuals in each sleeping room using double bunk beds where all occupants in the room are members of the same household or are related must be provided at least 40 square feet of floor space per occupant; or ¶

(iii) Use of both beds in a double bunk bed must not be allowed for individuals who are neither related nor part of the same household. In each sleeping room where one or more persons are neither related to nor part of the same household as one or more other occupants, all occupants must be provided at least 100 square feet of floor space per occupant. ¶

~~(b) Arrange tables and chairs in dining areas, so at least six feet of physical distance is maintained between persons. Restrict tables and chairs, or equivalent seating, to accommodate six feet of physical distancing. ¶~~

~~(c) Use appropriate physical distancing during mealtimes and encourage occupants to eat meals outside if it is safe to do so. ¶~~

~~(d) Limit non-essential visitors in common use areas, except for authorized persons. ¶~~

Table 1 - Summary of ~~Distanc~~Housing Requirements ¶

[See attached table] ¶

(7) Cleaning and Sanitation. ¶

Labor housing facilities must regularly clean or sanitize all common areas, shared equipment, and high-touch surfaces as defined by this rule that are under its the operator's control and that are used by employees or the public. At least daily, the following facilities must be sanitized in the described manner when used or other otherwise occupied. ¶

(a) Bathing facilities. 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 daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). ¶

(b) Hand washing facilities. 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 daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). ¶

(c) Toilet facilities. ¶

(A) Provide at least one toilet for every 15 occupants or fraction thereof for each gender in the labor housing. Toilets must assure privacy. When equipped, exhaust fans are to be left on continuously. ¶

(B) Clean and sanitize common use toilet facilities at least 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). ¶

(C) 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 daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). ¶

(d) Mattresses or pads. Fumigate mattresses or pads; that are 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~~ When covers are provide coversd, clean them before each season's occupancy and whenever the cover is assigned to a new user. ¶

(e) Clean the facilities and equipment before each occupancy. Ensure that high-touch areas in common use facilities are sanitized at least daily (if housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action). ¶

(f) Nothing would prohibit workers from sanitizing these areas more frequently than would otherwise be required if the worker chooses to do so. ¶

(g) Cleaning supplies.¶¶

(A) Housing operators must provide adequate cleaning materials at no cost, allowing occupants to clean and sanitize their living areas regularly. Occupants should be encouraged to clean their personal living areas as much as possible, including bed or bunk frames, and storage facilities, such as wall cabinets or shelves.¶¶

(B) Operators should avoid entering occupant's rooms or living quarters unless it is necessary.¶¶

Note: Where there is an actual conflict, the requirements above take precedence over those contained in OAR 437-004-1120. When no actual conflict exists, the requirements in OAR 437-004-1120 remain in effect. ¶¶

(8) 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 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 ~~and~~. 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.¶¶

(9) Non-employer provided transportation for labor housing.¶¶

~~Employers must ensure, at a minimum, the following disease preven~~ Oregon OSHA no longer requires employers to implement the transportation measures, are implemented in accordance with OAR 437-001-0744 subsection 3(b)(F)(ii). For employees who commute to and from the worksite with individuals outside their household, employers must advise them on the risks presented by close contact and encourage them to employ practices similar to those described in OAR 437-001-0744 subsection 3(b)(F)(ii) previously listed in OAR 437-001-0744 subsection (3)(b). These specific provisions are no longer in effect.

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

Statutes/Other Implemented: 654.001 through 654.295

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

437-004-1115 – COVID-19 Workplace Requirements for Employer-Provided Labor Housing

Table 1 – Summary of ~~[Distancing]~~Housing Requirements

Air Purification Method	Additional Capacity Reduction Method
1. Operators must ensure at least six-foot distancing from center point of single-occupant beds.	1. Operators <u>s</u> must ensure at least six-foot distancing between bed frames and alternate occupants from head to toe.
2. Double bunks for individuals who are neither related nor part of the same household are not allowed.	2. Double bunks for individuals who are neither related nor part of the same household are not allowed.
3. Operators must provide air purifiers for each room where people sleep. Air <u>p</u> [P]urifiers must have a [Change] <u>c</u> [C] <u>lean</u> <u>a</u> [A] <u>ir</u> <u>d</u> [D]elivery <u>r</u> [R]ate (CADR) sufficient enough to provide four <u>a</u> [A] <u>ir</u> <u>c</u> [C]hanges per <u>h</u> [H]our (ACH) and must not produce ozone either as a byproduct or as the primary method of cleaning the air.	3. Operators must provide at least 100 square feet of floor space per person in rooms where individuals who are neither related nor part of the same household are sleeping. Operators must provide at least 100 square feet of floor space per occupant in rooms where workers cook, sleep, and live, even if they are members of the same household.
4. Use appropriate physical distancing during mealtimes and encourage occupants to eat meals outside if it is safe to do so.	4. Use appropriate physical distancing during mealtimes and encourage occupants to eat meals outside if it is safe to do so.
5. Limit non-essential visitors in common use areas, except for authorized persons.	5. Limit non-essential visitors in common use areas, except for authorized persons.
6. Arrange tables and chairs in dining areas, so at least six feet of physical distance is maintained between persons. Restrict tables and chairs or equivalent seating to accommodate the six feet of physical distancing per table.	6. Arrange tables and chairs in dining areas, so at least six feet of physical distance is maintained between persons. Restrict tables and chairs or equivalent seating to accommodate the six feet of physical distancing per table.]