

Emergency COVID-19 Rule for Labor Housing and Agriculture Field Activities

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House Interim Committee on Agriculture and Land Use
Tuesday, May 26, 2020

Timeline of Key Events re COVID-19 Rule (1)

- 1/21/20 - First presumptive COVID-19 case in US identified in Washington state
- 2/28/20 - Governor Kate Brown forms “Coronavirus Response Team”
- 2/28/20 - First COVID-19 case in Oregon
- 3/8/20 - Governor Kate Brown announces State of Emergency
- 3/20/20 - A letter to OHA, copied to Oregon OSHA, includes a request for immediate rulemaking in Field Sanitation and Agriculture Labor Housing
- 3/21/20 - The letter’s authors confirm that they intend it to be a petition for rulemaking, and they confirm that they are requesting immediate action
- 3/24/20 - Governor Kate Brown issues Oregon’s “Stay Home/Stay Safe” order
- 3/27/20 - Oregon OSHA declines to adopt emergency rules immediately and distributes the Petition for Rulemaking for review and comment by affected stakeholders by 4/13/20
- 4/14/20 - Oregon OSHA begins review of 123 written comments received

Timeline of Key Events re COVID-19 Rule (2)

- 4/21/20 - Stemilt Ag Services in Washington state reports that 36 of 71 workers in its labor housing tested positive for COVID-19
- 4/23/20 - The Washington Departments of Health and Labor and Industries release a draft rule, inviting comments by 4/27/20
- 4/28/20 - Oregon OSHA adopts a temporary rule addressing Labor Housing, Agricultural Field Sanitation, and Agricultural Use of Employer-Provided Vehicles
- 5/4/20 - Oregon OSHA issues Q&A addressing a number of interpretive and other issues related to the rule
- 5/8/20 - Oregon OSHA issues memo delaying enforcement of rule until 6/1/20 and relaxing certain pre-existing provisions of the labor housing rules to allow additional options for compliance
- 10/24/20 - The rule expires, unless repealed previously based on the end of the circumstances justifying the emergency rule

Key Provisions related to Field Sanitation

- Requires one or more “social distancing officers” and work practices in order to ensure appropriate social distancing (at least 6’ separation).
- Decreases ratio of both toilet and handwashing facilities in the field from the current 1 per 20 workers to 1 per 10 workers.
- Requires toilets to be located at the entrance or exit to the field or in a completely harvested area, whichever is closer.
- Requires toilets and handwashing facilities to be sanitized at least three times daily.
- Revises the field sanitation notice and training requirements to include COVID-19.

Key Provisions related to Labor Housing

- Provides additional flexibility regarding registration of temporary housing and use of existing lodging facilities.
- Requires one or more “social distancing officers” and work practices in order to ensure appropriate social distancing (at least 6’ separation) between unrelated individuals.
- Reduces the ratio from 1 toilet for every 15 workers to 1 toilet for every 10 workers.
- Prohibits use of bunk beds by unrelated individuals.
- Requires that beds be separated by at least six feet or by an impermeable barrier.
- Requires common use toilets and handwashing facilities and other high contact common use items to be sanitized at least two times daily.
- Notes that COVID-19 requires immediate reporting under existing OHA rules.
- Includes provisions related to the isolation.

Key Provisions related to Vehicles

- Requires at least 3 feet social distancing be maintained during travel in employer-provided vehicles.
- Requires that facial coverings be worn by passengers and by the driver in employer-provided vehicles.
- Requires high-contact areas in employer-provided vehicles be sanitized before each trip or at least two times daily if in continuous use.
- Requires training for employees about appropriate social distancing when in their personal vehicles.

Selected Interpretive Clarifications

- Oregon OSHA will allow space with a ceiling height between 5 and 7 feet to count for as much as 50 percent of square footage
- The rule does not apply to housing provided by someone other than the employer specifically to respond to a public health emergency.
- The rule does not apply to hotel or motel space offered in the same condition it would be to the general public if the facility were operating
- Employment Department has confirmed with USDOL that such use will be permitted for H2A workers
- Recreational vehicles and travel trailers are allowed on the housing operator's site, provided that the vehicles house related individuals and are not used to house individuals beyond the sleeping capacity