

To: Oregon OSHA

From:

Kathy Kessie Morales, Unete Farm Worker Advocacy Center

Lisa Arkin, Beyond Toxics

Eric Richardson, NAACP Lane County

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Subject: Public Comment- Petition to Amend 437-004-1100 Relating to Field Sanitation and Related to Work and 437-004-1120 Relating to Agricultural Labor Housing and Related Facilities in response to the COVID-19 pandemic

Our three non-profit organizations serve individuals and communities who comprise a substantial part of the work force in agriculture and forestry and other professions that are continuing to do their jobs during the COVID-19 pandemic response. We support the petition to amend rules on field sanitation and agricultural labor housing for the purpose of protecting these workers from conditions that may unnecessarily put them at risk for contracting the COVID-19 virus and further spreading the virus among other workers or those with whom they come in contact in the larger community while shopping, going to church and other public interactions.

We urge Oregon OSHA to take immediate steps to ensure that these workers are being systematically included in the COVID-19 pandemic response mechanisms. We recognize that the global COVID-19 pandemic calls for government action to protect all people, regardless of their citizenship or documentation status, nationality, race, language, age, sex and socio-economic status.

In the first bullet point of the Oregon OSHA petition announcement, the Agency asks commenters to suggest rule amendments in a way that reduces negative economic impacts to businesses. We wish to point out that many businesses operating during the mandated distancing measures are enacting changes in business practices that have costs, not only agricultural businesses. Claims that this is a special hardship for agricultural businesses above and beyond what other employers are being required to do is unfounded. For example, many businesses are limiting the number of people allowed to enter their premises, thereby reducing sales. Grocery stores have erected plastic shields to separate cash register workers from shoppers, have installed hand-washing stations and are handing out plastic gloves, have hired more employees to do “deep cleaning” while the stores are closed, have increased workers’ pay to compensate them for the extra stress of sanitation requirements as well as interacting in close proximity to strangers throughout their work hours. Farmers markets are hiring monitors to ensure social distancing is maintained. Restaurant owners have switched to take-out orders only. All these businesses are incurring additional costs in response to COVID-19 protection measures. Everyone is doing their part to “flatten the curve.”

Farm workers are essential workers. Without their contributions, farmers would be unable to grow, harvest and package their produce for market. Farmers depend on these workers to do essential and skilled tasks throughout the growing season. Protecting the health and safety of farm workers should be paramount, both for the good of the workers and for the economic viability of farms throughout our state. Without healthy farm workers, agricultural businesses will surely incur greater economic losses into the future than any investments made now to protect farm workers during a global pandemic. Furthermore, farming businesses can apply for government assistance programs to help defray the costs associated with the impacts of COVID-19.

We recommend that Oregon OSHA immediately initiate rulemaking to require the following agricultural worker protections:

A. Distancing protocols on the job

As part of the 2020 annual registration of labor housing, Oregon OSHA must require verifiable proof that employers are adopting specific social distancing protocols to help reduce workplace exposure to COVID-19.

- Proof of worker transportation options that enable workers to distance themselves by a minimum of 3 ft.
- Written plans that ensure workers are separated by 6 ft. while working in the fields and orchards.
- Proof that, during rest periods, workers will have shade, potable water, hand washing stations and toilets in close proximity as well as a rest area large enough to self-distance.
- The proof must show that employers are distributing information about the COVID-19 virus, safety protocols and the risk and consequences of contracting the virus in Spanish and Indigenous languages; materials must be available for all workers in either written or through video presentation or both. Contact Multnomah County Government to access [fact sheets in multiple languages](#).
- Masks, gloves and cleaning supplies such as sanitizing wipes and soaps must be provided to all workers and people in agricultural fields and labor housing on a regular basis without cost to the worker.

B. Increased access to sanitary toilets and hand washing stations

OSHA should work with Oregon Health Authority as well as the Governor's office to provide agricultural employers with the means to obtain additional portable toilets and hand washing stations as well as the extra cleaning supplies to keep surfaces sanitary.

- Employers must provide proof that workers have increased access to portable toilets, hand washing stations at a ratio of 1 toilet per every 5 workers.

- Toilets should be located at the entrance to fields and orchards and no farther than 300 ft. distance from the work area.
- Employers must hire experienced workers to deep clean and restock these facilities every day.
- Vehicles used for worker transportation must also be sanitized on a daily basis.

C. Labor housing and COVID-19 precautions

Farm workers should be able to follow the same distancing requirements as other Oregon families.

- People who test positive for the COVID-19 virus or who exhibit COVID-19 symptoms should be housed in alternate, separate housing from others.
- Family units should be housed together and not be required to share living space with others.
- Employers provide proof they have actionable protocols for maintaining distancing and sanitation in shared kitchen facilities and bathrooms/showers.
- Increase the numbers of portable or indoor toilets and sinks to a ratio of one toilet per five people.

D. Compliance and inspections

It is not enough to accept voluntary measures or verbal reassurances from employers that they are going to do the right thing just because they say so.

- Oregon OSHA must require verifiable proof of compliance with COVID-19 safety precautions during the Agency's annual housing registration process as well as during field inspections.
- Oregon OSHA should increase field inspections during the COVID-19 precaution period.
- Oregon OSHA must adopt strict regulations that prohibit repercussions or retaliation for workers who report symptoms of COVID-19, request time off to quarantine or care for a family member who is ill, or report non-compliance for distancing and sanitation compliance.

To help the Agency carry out its worker protection mission, OSHA employees can serve as the contact between government agencies and employers to ensure the exchange of community and government resources to support prevention, mitigation, and monitoring of COVID-19. We strongly encourage Oregon OSHA to immediately initiate temporary, emergency rulemaking to protect Oregon's essential farm and forestry workers during the COVID-19 pandemic.