

April 10, 2020

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Re: 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

Thank you for the opportunity to provide comments on the petition to amend Oregon OSHA rules relating to field sanitation and agricultural labor housing in response to the COVID-19 pandemic. Collectively, our organizations represent farmers, ranchers, orchards, nurseries, wine growers, dairies, producers, and agri-business throughout Oregon. First and foremost, the health and safety of employees and their families are of the utmost importance to our organizations and our members. As such, we have each made it a priority to proactively distribute guidance and information to our members that includes the best available information on maintaining healthy workplaces during COVID-19.

While we agree with many of the sentiments in the Petition, including a strong desire to receive more guidance from the Oregon Health Authority that is specific to agriculture, we do not believe a rulemaking based on this Petition is warranted.

First, Oregon OSHA should not initiate this rulemaking because a majority of the proposed rule changes are adequately addressed and enforceable under existing OSHA Rules, the Governor's Executive Order 20-12, and guidance from the CDC and Oregon Health Authority. Under the OSHA General Duty Clause, employers must provide a safe workplace for their employees free of any hazards that might cause them serious harm. This standard is not relaxed because of COVID-19. Moreover, Executive Order 20-12 requires that businesses must close if they cannot comply with social distancing requirements consistent with the Oregon Health Authority's policies. Agriculture is treated the same under this Order as any other business.

However, the Petition adds new burdensome regulation for the agricultural industry, mandating extreme changes to business practices and company infrastructure, which no other industry in Oregon is being required to do. Additionally, many of the proposed rule changes are wholly unrelated to COVID-19, lack any scientific basis for minimizing exposure to COVID-19, or are impossible to execute in an abbreviated timeframe. Further, some of the proposed rule changes in the Petition are outside of the scope of OSHA's authority and infringe upon the autonomy and privacy of farm employees, including regulating farm employees in their private vehicles off the worksite.

If any changes are made, OSHA should waive certain criteria to allow for agricultural housing providers to create more emergency housing options, so that they are able to swiftly respond in COVID-19 outbreak scenarios. The Petition would make housing more difficult and expensive to supply, and would result in the immediate reduction of qualified housing available for farm employees. Oregon should be creating more options for shelter and housing at this time, not less.

Lastly, agricultural producers already operate on thin margins. Implementing the changes outlined in the Petition would cause substantial economic hardship for agricultural employers and would ultimately result in a loss of available jobs and wages in the agricultural industry. 97% of Oregon farms and ranches are family owned and operated. Implementing these changes will substantially increase the overhead costs of these family business, make production of locally raised food products unstable, and could decrease the availability of locally produced food. The proposed rule amendments pose a very real and direct threat to food security, which Oregonians should not have to face now or ever.

We thank you for the opportunity to share these concerns and look forward to continuing this important discussion on how to best protect employers and employees during COVID-19.

