



JACKSON COUNTY

Oregon

Board of Commissioners

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10 South Oakdale, Room 214
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July 23, 2020

Michael Wood, Administrator
Oregon Occupational Safety and Health Administration
P.O. Box 14480
Salem OR 97309-0405

RE: Agricultural Employers and Migrant Workers Requirements Related to COVID-19

Dear Administrator Wood:

We, the Jackson County Board of Commissioners, understand that the Oregon Occupational Safety and Health Administration (OR-OSHA) has passed temporary emergency rules for agricultural and food processing workers in response to COVID-19. These concerns have particularly been voiced by those in the wine grape and pear industries, both of which are very large and critical industries in Southern Oregon.

The OR-OSHA emergency temporary rules require additional sanitation, transportation, and housing for agricultural and food processing workers. Please know that our Jackson County Emergency Operations Center has been assisting the industry with Personal Protective Equipment (PPE) and hand sanitizer, and we understand that our industries have been able to obtain the necessary additional hand washing stations and portable restrooms. However, these industries are struggling to identify housing that will meet the standards as they require workers to be in separated housing when an adequate dispersed housing is not available at these facilities. This is causing problems with utilizing migrant labor during harvesting and it reduces the number of employees who are working in our fields, orchards, and vineyards, and reduces the amount of the anticipated harvest. We respectfully request that these rules be amended to allow safe and sanitary emergency-type facilities, such as tents, to house these employees during this emergency. In addition, we have been told that there is a possibility that a version of these rules may be made permanent in October, without ever having gone through the public rule-making process that ordinary course rule-making requires. We sincerely hope that is not the case. These rules need a standard rule-making process which allows for public testimony in an open and transparent way. As these rules were passed due to the COVID-19 crisis, it seems that they should end with the crisis. Any extension should be temporary and should end when the declaration of a state of emergency ends.

In addition, we understand that OR-OSHA is imposing a Local Emphasis Program (LEP) on the agriculture and food processing industries due to increased numbers of positive COVID-19 tests that have been found in those industries. You should understand that our largest grower, Harry and David, has *opted* to test all workers ahead of putting them in housing, or into the field, in order to abate the unwitting spread of COVID-19. That is, rather than wait for an outbreak to make its way through all of the workers, with the potentially devastating impact that it could have on the harvest, they are choosing to test ahead of time. Other growers are considering the same approach. For this conscientiousness, Harry and David, and potentially others, could face fines and other actions by OR-OSHA for having an outbreak of positive tests. Rather than having a positive effect on public health and safety, OR-OSHA's actions seem designed to stop our growers from taking steps which they believe will be helpful to their workforces. We ask that OR-OSHA, instead of using the LEP to punish the growers, which will result in fewer workers and less agriculture product, work *with* the growers to tailor a program that will get the work done in the safest possible manner.

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Finally, we also understand that OR-OSHA seeks to develop an infectious disease standard by September 1, 2020. As you know, this is a one-size-fits-all mandate that is intended to stop the spread of all airborne viruses in the workplace; an impossible standard for any industry to meet. In fact, the legislature, in the recent Special Session, declined to set this standard. Legislators from both parties expressed grave concern about the standard and, in the end, declined to pass legislation creating it. In response to the American Federation of Labor and Congress of Industrial Organizations' request at the Federal level, the Federal government has declined to create this standard multiple times over the past 15 years, under three different administrations. In spite of this level of opposition, OR-OSHA apparently intends to move forward with this standard under a rule-making process. We are extremely concerned about what this will mean not only for our agriculture and food industries, but for all additional industries that will be affected and who may not even know what is coming their way. It is destined to cost millions of dollars not only in mitigation measures, but also in litigation.


We look forward to your thoughtful response to our suggestions and considerations at this critical time in Oregon.

Sincerely,

JACKSON COUNTY BOARD OF COMMISSIONERS



Colleen Roberts, Chair



Rick Dyer, Commissioner



Bob Strosser, Commissioner

RD:ah

By: 1st Class Mail