OREGON FARM BUREAU FEDERATION
INTERIM GUIDANCE FOR AGRICULTURAL EMPLOYERS
FOR COVID-19

May 5, 2020
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INTERIM GUIDANCE FOR MAINTAINING HEALTHY BUSINESS OPERATIONS:  
(updated 5/5/2020)

This interim guidance is based upon what is currently known about the COVID-19 virus. The following guidance is intended to assist agricultural businesses in minimizing workplace exposure to the COVID-19 virus. Please note that this guidance is not legal advice nor is it intended to substitute for advice of legal counsel. Please consult legal counsel with any questions about how state or federal directives impact your operation. We will endeavor to update this guidance as new information becomes available, but the situation around the COVID-19 virus is evolving rapidly and we anticipate state and federal guidance to change frequently as well.

This information has been compiled from the following sources: US Centers for Disease Control and Prevention (CDC), Oregon Health Authority, OSHA Guidance on Preparing Workplaces for COVID-19 and OAR 437-001-0749 - Temporary rule addressing the COVID-19 emergency in employer-provided housing, labor-intensive agricultural operations, and agricultural transportation.

1. Actively Encourage Sick Employees to Stay Home and Send Sick Employees Home:
   - Employees who are sick, and especially those who have COVID-19 symptoms (i.e., fever, cough, or shortness of breath), should notify the company immediately pursuant to their attendance policy and stay home. Employees should not return to work until the criteria to discontinue quarantine are met, in consultation with healthcare providers and state and local health departments.
   - Employees who are well, but who have a family member with whom the employee resides or a roommate who has symptoms consistent with COVID-19, should immediately notify the company according to the company’s attendance policy, closely follow CDC recommended precautions, and employers should encourage or require the employee to stay home. Sick employees should follow CDC-recommended steps.
   - Employees who appear to have COVID-19 symptoms upon arrival at work or who become sick during the day should immediately be separated from other employees, customers, and visitors, and sent home. Where appropriate, employers should develop policies and procedures for immediately isolating people who have signs and/or symptoms of COVID-19, and notify employees of these policies.
   - If an employee tests positive for COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace, but maintain confidentiality as required by the Americans with Disabilities Act (ADA) and state disability rules. Fellow employees should self-monitor for developing COVID-19 symptoms.
   - If an employee tests positive for COVID-19, employers should immediately perform enhanced cleaning and disinfection of the employee’s work area, tools and equipment used by the employee, and any communal areas and restrooms following the CDC Recommendations Cleaning and Disinfection.
2. **Mitigate How Employees Might Be Exposed To COVID-19 At Work:**

- Be aware that some employees may be at [higher risk for serious illness](#), such as older adults and those with chronic medical conditions.

- In accordance with the Governor’s [Executive Order No. 20-12](#) and [OAR 437-001-0749](#) allow employees to telework if possible. Businesses must designate an employee or officer to establish, implement, and enforce sanitation measures and social distancing policies consistent with the Oregon Health Authority’s policies on social distancing. Designate an employee or officer to enforce these social distancing policies and sanitation measures.

  **NOTE:** OAR 437-001-0749(6) states, “Affected agricultural employers must plan and implement work activities so that workers will not need to be within 6 feet of each other as they perform their duties, during breaks, or during meal periods. In the event that the employer determines and can demonstrate that it is impossible to structure work activities to avoid such contact, contact within 6 feet must be minimized and the employer must implement appropriate additional sanitation and protective measures (including the use of cloth face coverings by the affected employees).”

- Strategies that farms should use to implement social distancing include:
  - Implementing flexible worksites (e.g., telework)
  - Implementing flexible work hours (e.g., staggered shifts)
  - Increasing physical space between employees at the worksite
  - Increasing physical space between employees and customers
  - Delivering products through curbside pick-up or delivery
  - Increasing physical space between employees during meals, rest periods, and restroom breaks
  - If breaks are taken in an enclosed space, limit occupancy of the space to no more than 10 individuals at a time or less if needed to maintain proper social distancing

- Provide one toilet facility and one handwashing facility for each 10 employees or fraction thereof. If the employer can demonstrate that market availability prevents immediate compliance with this provision, the employer must provide as many toilet facilities and handwashing facilities as possible until the ratio has been satisfied. This rule is effective June 1, 2020.

- Locate toilet and handwashing facilities adjacent to each other and at the entrance or exit to the field or in a completely harvested area, whichever is closer. In any case, such facilities must be no more than a 5-minute or a 1/4-mile (1,320 feet) unobstructed walk from each hand laborer’s place of work in the field.

- Routinely [clean and disinfect](#) all frequently touched surfaces in the workplace. Give special attention to high-touch surfaces, including, but not limited to, door handles, faucets, toilet handles, light switches, countertops, chairs, tables, equipment, machinery, tools, etc.

- Consider improving the engineering controls using the building ventilation system by increasing ventilation rates and the percentage of outdoor air that circulates into the system.

- Promote frequent and thorough hand washing, including by providing employees, customers, and worksite visitors with a place to wash their hands and notification of the location of each
handwashing facility. If soap and running water are not immediately available, provide alcohol-based hand rubs containing at least 60% alcohol. Inform each employee of the importance of washing hands whenever high-contact surfaces have been or will be touched, and after covering a cough or sneeze.

- Ensure bathrooms, including transportable toilets or temporary restroom facilities, are consistently stocked with water, soap, and disposable drying materials for handwashing. Provide access to tissues, trash bins, and plastic bags for the proper disposal of used tissues and other personal care products. Ensure that handwashing facilities are cleaned when necessary and that they are sanitized to mitigate the spread of COVID-19 at least three times daily.

- Encourage employees to wear simple cloth face coverings as recommended by the CDC to slow the spread of the virus, and help people who may have the virus and do not know it from transmitting it to others. The cloth face coverings recommended are not surgical masks or N-95 respirators. Those are critical supplies that must continue to be reserved for healthcare employees and other medical first responders.

- Provide disposable or single-use cups at drinking stations.

- Do not transport employees who are showing COVID-19 symptoms to the workplace. If you must provide transportation for employees, provide adequate space (3 ft) between employees in vehicles and wipe down all high-contact surfaces afterward with an approved disinfectant, or at least twice each day when in continuous use. Seats that do not allow for such separation cannot be used, regardless of the vehicle’s normal capacity. The vehicle operator and any passengers must wear cloth facial coverings that cover their nose and mouth.

- If you must provide transportation for employees away from work who are showing symptoms of COVID-19, transport them separately from healthy employees and remind passengers of the need to "cover their cough." Wipe down all high-contact surfaces afterwards with an approved disinfectant.

3. Educate Employees About How They Can Reduce the Spread of COVID-19 And What Resources Are Available to Them:

- Hold a training session for employees to go over US Centers for Disease Control guidelines for how COVID-19 spreads, how employees can protect themselves, and proper sanitization.

- Post instructional posters and fact sheets, in English and Spanish, in communal areas and bathrooms to educate employees about proper hand hygiene and symptoms of COVID-19.

- Connect employees to employee assistance programs and community resources as needed.

- Provide all employees with job-specific education and training on preventing transmission of COVID-19, and consider doing refresher training as more information becomes available.

- Employers that grow or harvest food crops for human consumption must post a notice describing the requirements of OSHA’s temporary rules, including their application to COVID-19 risks, and advising where workers may file complaints regarding field sanitation matters. It must be in the language of the majority of the workers.
• Employers must advise employees of the risks presented by close contact when commuting and encourage them to follow the same rules for social distancing and cleaning and sanitation, as required by employer provided transportation.

For general COVID-19 information please visit:

• OHA COVID-19 Updates
• US Centers for Disease Control and Prevention COVID-19
• Oregon OSHA Temporary Rules
• OSHA Temporary Rules FAQ
INTERIM GUIDANCE FOR FARM EMPLOYEE HOUSING PROVIDERS:
(updated 5/5/2020)

This interim guidance is based upon what is currently known about COVID-19. The following guidance is intended to assist agricultural employers who provide housing to employees in preventing exposure to COVID-19 in agricultural housing units. This information has been compiled from the following sources, but is subject to change as investigations are ongoing, and specific information for agricultural labor housing becomes available. This information is sourced from the US Centers for Disease Control and Prevention (CDC) and the Oregon Health Authority, and OAR 437-001-0749 - Temporary rule addressing the COVID-19 emergency in employer-provided housing, labor-intensive agricultural operations, and agricultural transportation.

* NOTE: All housing, whether already registered as agricultural labor housing for 2020 or not, must comply with the requirements of OSHA’s temporary rule. If necessary, Oregon OSHA will consider expedited housing registration for the 2020 season for additional housing required for workers quarantined or isolated as a result of COVID-19 exposure, COVID-19 symptoms, or positive COVID-19 diagnosis.

1. Operators of housing must identify one or more individuals who will be responsible for identifying appropriate social distancing and sanitation measures and ensuring that such measures are implemented. Appropriate social distancing measures require that workers in housing not be within 6 feet of each other. In the event that it is impossible to avoid contact within 6 feet of each other, such contact must be minimized, and additional sanitation and protective measures must be implemented (including the use of cloth face coverings when appropriate by the affected workers).

2. Hold a training session for employees to go over US Centers for Disease Control guidelines for reducing transmission of COVID-19, and how they can protect themselves, their family, and their homes.

3. Develop or update your emergency action and Hazard Communication Program plan by identifying a list of key contacts at your local and state health departments, as well as a list of healthcare facilities where employees with respiratory illness can seek appropriate care. Make these contacts readily available for employees.

4. Ensure bathrooms and other sinks are consistently stocked with water, soap, and disposable drying materials for handwashing. Provide access to tissues, trash bins, and plastic bags for the proper disposal of used tissues and other personal care products. The costs of these materials and all cleaning supplies should not be shifted to employees.

5. Post instructional posters and fact sheets, in English and Spanish, in communal areas and bathrooms to educate employees about proper hand hygiene and symptoms of COVID-19.

6. Clean and sanitize housing during times of the day that employees are not generally at housing site (during work hours while employees are working). Increase the frequency of cleaning schedules for communal areas. At least two times a day, sanitize all high-touch surfaces, including, but not limited to, adjustable shower heads, door handles, faucets, toilet handles, light switches, countertops, chairs, tables, remote controls, etc. Sanitize spigots and spigot handles at least two times daily. If housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action. Housing operators must provide cleaning materials at no cost, allowing occupants to clean and sanitize their living areas regularly.

7. Provide one toilet facility for each 10 occupants or fraction thereof. If the operator can demonstrate that market availability prevents immediate compliance with this provision, the operator must provide as many toilet facilities as possible until the ratio has been satisfied. These rules are effective June 1, 2020. Clean and sanitize common use toilet facilities at least two times daily. If housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action.

8. 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 at least three times daily. If housing occupants are assigned this task, it must be treated as a work assignment rather than a voluntary action.

9. Fumigate mattresses or pads, 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 provide covers, clean them before each season’s occupancy and whenever the cover is assigned to a new user.

10. Beds must be arranged so that at least one of the following is true:
- Beds and cots must be spaced at least six (6) feet apart between frames in all directions and arranged so that occupants sleep head to toe; OR
- Beds and cots must be separated by a bed length, floor to near ceiling temporary non-permeable barrier (for example, using plexiglass, heavy plastic, lightweight wood sheeting, etc.) placed perpendicular to wall such that a 28-inch minimum aisle remains available to the occupant of each bed; OR
- An operator may implement other effective engineering and/or administrative controls to modify this requirement with prior approval by Oregon OSHA.

11. Do not allow the use of double bunk beds by unrelated individuals.

12. Instruct employees that if they are sick or have COVID-19 symptoms, they must alert the company immediately. Employers must report cases of COVID-19 immediately, day or night to local public health authorities or the Oregon Health Authority if local health authorities are unavailable.

13. Implement policies and procedures to identify and isolate sick occupants:
- Suspect COVID-19 cases must be isolated with sleeping, eating, and bathroom accommodations that are separate from others. 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.
- Confirmed COVID-19 cases must be isolated and only housed with other confirmed cases and must have separate bathroom, cooking and eating facilities 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.
• 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.

14. Check with local emergency housing providers for temporary housing options for those who might test positive and need to be quarantined where on-site options do not exist.

Oregon OSHA has announced that OSHA will provide interim approvals for new or modified housing based on a review of application materials (supplemented by photographs or other materials that OSHA requests during the review) without the onsite visit that OSHA normally requires. More information can be found HERE under the Interim Guidance for Oregon OSHA Related to COVID-19 (Agricultural Labor Housing) tab.

For general COVID-19 information please visit:

• OHA COVID-19 Updates
• US Centers for Disease Control and Prevention COVID-19
• Oregon OSHA COVID 19
• OHCS COVID-19
• Oregon OSHA Temporary Rules
• OSHA Temporary Rules FAQ
Our company is always concerned about the health and well-being of our employees. We take seriously our duty and obligation to provide our employees with a safe and healthy workplace. This means that we care about our employees’ protection from the Covid-19 virus while at work. We have implemented this policy effective March 2020 and expect all employees to abide by it. This policy is also part of our Hazard Communication program. We anticipate that employees may feel anxious, fear, hear rumors, and receive misinformation and we want to help reduce fear and anxiety, dispel myths, and correct misinformation when possible. Please speak to your supervisor or the office if you have questions about this policy.

We have appointed ____ (name) ____________ to be our Social Distancing Officer. This person has the authority to enforce this policy. Employees who do not comply will face disciplinary action up to and including termination.

This is a temporary policy that may need to be updated or changed at any time and will be retracted when the Covid-19 pandemic has ended.

All employees are required to practice “social distancing” while at work. This means employees must always maintain at least a 6-foot distance from another employee, customers and vendors, and visitors. All employees must wash their hands regularly with soap and hot water during break periods, or at the least with an alcohol-based hand sanitizer. Employees may not take meal or rest breaks in a group but must sit or stand at least 6’ apart from one another. Any uneaten meal items, wrappers, napkins, utensils, etc., must be disposed of properly to avoid others touching them.

We are increasing sanitation of field toilets, handwashing facilities and other high contact areas. We may assign all or specific employees to be responsible for the sanitation responsibilities. Time spent sanitizing is paid time.

No employees are to come to work if they have Covid-19 symptoms or have tested positive for Covid-19 but must follow our attendance policy and notify us that they have Covid-19 symptoms. Employees who are off work are expected to stay in contact with the office by calling us or texting us each week about their status and expectation of returning to work. To be eligible for federal Emergency Paid Sick Leave, employees must be under the care of their doctor due to Covid-19, under a quarantine or caring for someone under quarantine, or caring for a child whose school or daycare is closed. Employees will need to provide verification documentation and need to do so in advance if it is practicable to do so.

Employees who show symptoms consistent with the Covid-19 virus while at work will be sent home immediately and placed on an unpaid leave of absence and are not to return to work until they have no fever for at least 72 hours (i.e, three full days of no fever without the use of fever-reducing medicine) and other symptoms have improved; AND at least seven days have passed since the first symptoms appeared. Employees are required to notify the company immediately when symptoms first appear. Employees may use their available sick leave, vacation leave, federal paid sick leave or federal paid family leave (when available) to cover their wages during the required leave of absence. If the employee has no available paid leave, the employee’s absence will be unpaid. In the unlikely event that the employee’s symptoms become complicated, the employee may be entitled to other leaves under federal or state rules.
If an employee’s immediate family member, who the employee is in contact with, tests positive for Covid-19, the employee must notify the company immediately and self-monitor for symptoms of Covid-19 infection. In this case, we may ask the employee to stay at home in the same manner we would for employees with symptoms consistent with the COVID-19 virus, or we may temporarily isolate the employee to another work area to protect other employees. This is not to be viewed as a punishment, but rather as a protective measure for everyone.

Employees who are placed on leave of absence are expected to keep us updated on their status by texting or calling the company each week. If employees pay a portion of their health insurance benefits, the employee may be expected to continue to pay their portion during the leave of absence. Employees who do not return to work after their leave of absence as expected will be considered to have quit without notice.

Employees at work are responsible for cleaning their work area, tools, handles, knobs, switches, etc. before and after use with the cleaning supplies we have made available in each work location. Employees are expected to wear latex/non-latex gloves whenever possible and dispose of them properly.

Employees who ride in company-provided transportation must wear face coverings and must sit at least three feet away from other passengers. If a seat in the vehicle does not allow for a minimum three-foot distance, that seat may not be occupied.

Employees who are living in employer-provided housing must follow the employer’s housing rules for social distancing and sanitization of all high-contact areas.
Nuestra empresa siempre está preocupada por la salud y el bienestar de nuestros empleados. Nos tomamos en serio nuestro deber y obligación de proporcionar a nuestros empleados un lugar de trabajo seguro y saludable. Esto significa que nos preocupamos por la protección de nuestros empleados contra el virus Covid-19 mientras estamos en el trabajo. Hemos implementado esta política a partir de marzo de 2020 y esperamos que todos los empleados la cumplan. Esta política también forma parte de nuestro programa de Comunicación de Peligros. Anticipamos que los empleados pueden sentirse ansiosos, temer, escuchar rumores y recibir desinformación y queremos ayudar a reducir el miedo y la ansiedad, disipar mitos y corregir la desinformación cuando sea posible. Por favor, hable con su supervisor o con la oficina si tiene preguntas sobre esta política.

Hemos nombrado _____(nombre)____________ ser nuestro Oficial de Distanciamiento Social. Esta persona tiene la autoridad para hacer cumplir esta política. Los empleados que no cumplan se enfrentarán a medidas disciplinarias hasta e incluyendo la terminación.

Esta es una política temporal que puede necesitar ser actualizada o cambiada en cualquier momento y se retraerá cuando la pandemia de Covid-19 haya terminado.

Todos los empleados están obligados a practicar el "distanciamiento social" mientras están en el trabajo. Esto significa que los empleados siempre deben mantener al menos una distancia de 6 pies de otro empleado, clientes y proveedores, y visitantes. Todos los empleados deben lavarse las manos regularmente con jabón y agua caliente durante los períodos de descanso, o al menos con un desinfectante de manos a base de alcohol. Los empleados no pueden tomar descansos o comida en un grupo, pero deben sentarse o permanecer al menos 6’ separados unos de otros. Cualquier artículo de comida no comido, envoltorios, servilletas, utensilios, etc., deben ser eliminados adecuadamente para evitar que otros los toquen.

Estamos aumentando el saneamiento de los inodoros del campo, instalaciones de lavado de manos y otras áreas de alto contacto. Podemos asignar todos o unos empleados específicos para ser responsables de las responsabilidades de saneamiento. El tiempo dedicado a la desinfección es tiempo pagado.

Ningún empleado debe venir a trabajar si tienen síntomas de Covid-19 o han dado positivo para Covid-19, pero deben seguir nuestra política de asistencia y notificarnos que tienen síntomas de Covid-19. Se espera que los empleados que están fuera del trabajo se mantengan en contacto con la oficina llamándonos o enviándonos mensajes de texto cada semana sobre su estado y la expectativa de volver al trabajo. Para ser elegible para la licencia federal por enfermedad pagada de emergencia, los empleados deben estar bajo el cuidado de su médico debido a Covid-19, bajo la cuarentena o cuidando a alguien en cuarentena, o cuidando a un niño cuya escuela o guardería está cerrada. Los empleados deberán proporcionar documentación de verificación y deberán hacerlo con anticipación si es posible.

Los empleados que muestren síntomas consistentes con el virus Covid-19 mientras están en el trabajo serán enviados a casa inmediatamente y colocados en una licencia no remunerada y no deben volver al trabajo hasta que no tengan fiebre durante al menos 72 horas (es decir, tres días completos sin el uso de medicamentos para reducir la fiebre) y otros síntomas han mejorado; Y han pasado al menos siete días desde que aparecieron los primeros síntomas. Los empleados deben notificar a la empresa inmediatamente cuando aparecen los síntomas por primera vez. Los empleados pueden usar su licencia por enfermedad disponible, licencia de vacaciones, licencia federal pagada por enfermedad o licencia familiar pagada federal (cuando esté disponible) para cubrir.
sus salarios durante la licencia requerida. Si el empleado no tiene licencia pagada disponible, la ausencia del empleado no será pagada. En el improbable caso de que los síntomas del empleado se compliquen, el empleado puede tener derecho a otras hojas bajo las reglas federales o estatales.

Si el familiar inmediato de un empleado, con quien el empleado está en contacto, ofrece pruebas positivas para Covid-19, el empleado debe notificar a la empresa inmediatamente y autocontrol los síntomas de la infección de Covid-19. En este caso, podemos pedirle al empleado que se quede en casa de la misma manera que lo haríamos con empleados con síntomas consistentes con el virus COVID-19, o podemos aislar temporalmente al empleado a otra área de trabajo para proteger a otros empleados. Esto no debe ser visto como un castigo, sino más bien como una medida de protección para todos.

Se espera que los empleados que se encuentran en licencia nos mantengan actualizados sobre su estado enviando mensajes de texto o llamando a la empresa cada semana. Si los empleados pagan una parte de sus beneficios de seguro de salud, se puede esperar que el empleado continúe pagando su parte durante el permiso de ausencia. Los empleados que no regresen al trabajo después de su licencia como se esperaba se considerará que han renunciado sin previo aviso.

Los empleados en el trabajo son responsables de limpiar su área de trabajo, herramientas, asas, perillas, interruptores, etc. antes y después de su uso con los suministros de limpieza que hemos puesto a disposición en cada lugar de trabajo. Se espera que los empleados usen guantes de látex/no látex siempre que sea posible y los desechen adecuadamente.

Los empleados que viajan en el transporte provisto por la empresa deben usar mascarillas y deben sentarse al menos a un metro de distancia de otros pasajeros. Si un asiento en el vehículo no permite una distancia mínima de un metro, ese asiento no puede estar ocupado.

Los empleados que viven en viviendas proporcionadas por el empleador deben seguir las reglas de la vivienda del empleador para el distanciamiento social y la desinfección de todas las áreas de alto contacto.
INTERIM GUIDANCE ON COVID-19 FEDERAL PAID SICK LEAVE:

This information has been compiled from the following source: U.S. Department of Labor’s Press Release and their FFCRA FAQ. The Department of Labor has been and will continue to provide emergency guidance and rulemaking to clearly articulate this law. Please consult legal counsel with any questions about how this federal directive impacts your operation.

On March 18, the President of the United States signed the “Families First Coronavirus Response Act” (FFCRA). On March 23rd, the U.S. Treasury Department, Internal Revenue Service, and the U.S. Department of Labor announced that small and midsize employers can begin taking advantage of two new refundable payroll tax credits, designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing FFCRA leave to their employees.

In general, the FFCRA provides paid sick leave and expanded family and medical leave for COVID-19 related reasons and created the refundable paid sick leave credit and the paid child-care leave credit for eligible employers. Eligible employers are businesses and tax-exempt organizations with fewer than 500 employees that are required to provide emergency paid sick leave and emergency paid family and medical leave under the act. Eligible employers will be able to claim these credits based on qualifying leave they provide between the effective date and Dec. 31, 2020. Equivalent credits are available to self-employed individuals based on similar circumstances. The FFCRA will take effect on April 1 and contains a number of major provisions concerning paid leave, job protection, and tax implications that will affect employers nationwide. The FFCRA sunsets on December 31, 2020.

Please print out the new FFCRA Posters and Fact Sheets and make available for your employees in both English and Spanish. Additionally, you can find an updated FAQ page HERE.

Here is an overview of key points:

1. Eligible Employers:

An employer will be deemed to have fewer than 500 employees if, at the time the employee’s leave is to be taken, the company employs fewer than 500 full-time and part-time employees within the United States, which includes any State of the United States, the District of Columbia, or any Territory or possession of the United States. In making this determination, the company should include employees on leave; temporary employees who are jointly employed by the business and another employer (regardless of whether the jointly-employed employees are maintained on only the company’s or another employer’s payroll); and day laborers supplied by a temporary agency (including Farm Labor Contractors, regardless of whether the company is the temporary agency or the client firm if there is a continuing employment relationship). Employees who are independent contractors under the Fair Labor Standards Act (FLSA), rather than employees, are not considered employees for purposes of the 500-employee threshold.

Please see the FFCRA FAQ for more information and consult legal counsel with any questions about how this guidance and federal directive impacts your operation.

*NOTE: The US Department of Labor FAQ document was updated on 5/1/2020. Please review for new information regarding employer guidance on interpreting and complying with FFCRA.*
2. **Paid Sick Leave for Employees:**
   - The act provides that employees of eligible employers can receive two weeks (up to 80 hours) of paid sick leave at 100% of the employee’s pay where the employee is unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms, and seeking a medical diagnosis.
   - An employee who is unable to work because of a need to care for an individual subject to quarantine, to care for a child whose school is closed or child care provider is unavailable for reasons related to COVID-19, and/or the employee is experiencing substantially similar conditions as specified by the U.S. Department of Health and Human Services can receive two weeks (up to 80 hours) of paid sick leave at 2/3 the employee’s pay.
   - An employee who is unable to work due to a need to care for a child whose school is closed or child care provider is unavailable for reasons related to COVID-19, may in some instances receive up to an additional ten weeks of expanded paid family and medical leave at 2/3 the employee’s pay.

3. **Paid Sick Leave Credit:**
   - For an employee who is unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee’s regular rate of pay, up to $511 per day and $5,110 in the aggregate, for a total of 10 days.
   - For an employee who is caring for someone with Coronavirus, or is caring for a child because the child’s school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus, eligible employers may claim a credit for two-thirds of the employee’s regular rate of pay, up to $200 per day and $2,000 in the aggregate, for up to 10 days.
   - Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

4. **Child Care Leave Credit:**
   - In addition to the sick leave credit, for an employee who is unable to work because of a need to care for a child whose school or child-care facility is closed or whose child care provider is unavailable due to the Coronavirus, eligible employers may receive a refundable child care leave credit.
   - This credit is equal to two-thirds of the employee’s regular pay, capped at $200 per day or $10,000 in the aggregate.
   - Up to 10 weeks of qualifying leave can be counted towards the child-care leave credit. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

5. **Prompt Payment for the Cost of Providing Leave:**
   - When employers pay their employees, they are required to withhold from their employees’ paychecks federal income taxes and the employees’ share of Social Security and Medicare taxes. The employers then are required to deposit these federal taxes, along with their share of Social Security and Medicare taxes, with the IRS and file quarterly payroll tax returns with the IRS.
   - Eligible employers who pay qualifying sick or child-care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child-care leave that they paid, rather than deposit them with the IRS.
   - The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes and the employer share of Social Security and Medicare taxes with respect to all employees.
• If there are not sufficient payroll taxes to cover the cost of qualified sick and childcare leave paid, employers will be able to file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less.  

**NOTE:** The details of this new, expedited procedure have yet to be announced.

• Equivalent child-care leave and sick leave credit amounts are available to self-employed individuals under similar circumstances. These credits will be claimed on their income tax return and will reduce estimated tax payments.

**Example:** If an eligible employer paid $5,000 in sick leave and is otherwise required to deposit $8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to $5,000 of the $8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining $3,000 on its next regular deposit date.

**Example:** If an eligible employer paid $10,000 in sick leave and was required to deposit $8,000 in taxes, the employer could use the entire $8,000 of taxes in order to make qualified leave payments, and file a request for an accelerated credit for the remaining $2,000.

5. **Small Business Exemption:**

• Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or childcare unavailability where the requirements would jeopardize the ability of the business to continue.

• The exemption will be available on the basis of simple and clear criteria that make it available in circumstances involving jeopardy to the viability of an employer’s business as a going concern.

**NOTE:** DOL has provided further guidance for this exemption:

An employer, including a religious or nonprofit organization, with fewer than 50 employees (small business) is exempt from providing (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and (b) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business as a going concern.

A small business may claim this exemption if an authorized officer of the business has determined that:

- The provision of paid sick leave or expanded family and medical leave would result in the small business’s expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
- The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
- There are not sufficient employees who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave,
and these labor or services are needed for the small business to operate at a minimal capacity.

- To elect this small business exemption, you should document why your business with fewer than 50 employees meets the criteria set forth by the Department, which will be addressed in more detail in forthcoming regulations. However, you should not send any materials to the Department of Labor when seeking a small business exemption for paid sick leave and expanded family and medical leave.

*Please see the [FFCRA FAQ](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions) for more information and consult legal counsel with any questions about how this guidance and federal directive impacts your operation.*

6. Non-Enforcement Period:
   - Department of Labor will be issuing a temporary non-enforcement policy that provides a period of time for employers to come into compliance with the act.
   - Under this policy, Department of Labor will not bring an enforcement action against any employer for violations of the act so long as the employer has acted reasonably and in good faith to comply with the act.
   - The Department of Labor will instead focus on compliance assistance during the 30-day period.

For more information please visit:
- [https://www.dol.gov/agencies/whd/pandemic/ffcra-questions](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)
- Families First Coronavirus Response Act: Employee Paid Leave Rights
- Families First Coronavirus Response Act: Employer Paid Leave Requirements
- COVID-19 and the Family and Medical Leave Act: Questions and Answers
- WHD Response to COVID-19
COVID-19 GENERAL BUSINESS GUIDANCE FOR EMPLOYERS:

Governor Kate Brown’s Executive Orders:
- Executive Order 20-12: Stay Home Order
- Executive Order 20-11: Temporary Moratorium on Residential Evictions
- Executive Order 20-10: Preservation of PPE, Prohibition on Non-Emergency Medical Procedures
- Executive Order 20-09: Suspension of In-Person Instruction at Institutions of Higher Ed
- Executive Order 20-08: Oregon School Closure through April 28
- Executive Order 20-07: Prohibiting On-Premises Consumption of Food or Drink and Gatherings of More Than 25 People
- Executive Order 20-06: Declaration of Abnormal Disruption of the Market due to COVID-19, Prevention of Price Gouging
- Executive Order 20-05: Prohibiting Large Gatherings Due to COVID-19 Outbreak
- Executive Order 20-03: Declaration of Emergency Due to Coronavirus

Oregon OSHA:
- Oregon OSHA has this landing page to provide general guidance to employers and employees who may be impacted by the COVID-19 virus.
- Oregon OSHA Temporary Rules
- OSHA Temporary Rules FAQ

Oregon Employment Department:
- OED provides this landing page to provide general guidance to employers, employees, and job seekers who may be impacted by the COVID-19 virus.
- OED has published these Temporary Rules for Unemployment Insurance Benefits Flexibility on their landing page, setting out unemployment insurance provisions applicable to the unique situations arising due to COVID-19 and the actions to slow its spread.
- This chart highlights whether certain benefits apply in COVID-19 scenarios.

Oregon Bureau of Labor and Industries:
- BOLI provides this landing page to help employers keep track of changes to workplace laws in light of COVID-19.
- BOLI provides this guidance on Predictive Employee Scheduling & Coronavirus Pandemic answers questions relating to the predictive scheduling law, SB 828, affecting employers with more than 500+ employees.
- BOLI has filed this Temporary Rule For Expanding OFLA in response to the declaration of global health pandemic and statewide public health emergency.
- BOLI has informally indicated that because of school closures, young adults (14-15 years old) can work more than 3 hours a day on school days. Please consult your counsel if you have any questions about this interpretation.
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