



August 25, 2020

To: Oregon OSHA Rulemaking Team – tech.web@oregon.gov
From: Jason Brandt, President & CEO, Oregon Restaurant & Lodging Association
Re: Comments on Oregon OSHA’s Draft Temporary COVID-19 Standard

The Oregon Restaurant & Lodging Association (ORLA) would like to thank the Oregon OSHA Rulemaking Team for providing us the opportunity to comment on the Draft Temporary COVID-19 Standard. As you are most likely aware, Oregon’s once bustling hospitality industry has been severely impacted by the pandemic unlike any other industry. ORLA’s current active membership includes 1,667 restaurant locations, 511 lodging locations, and 246 allied companies who support the hospitality industry. Before COVID-19, Oregon’s hospitality industry included over 10,000 foodservice locations and 2,500 lodging properties employing over 180,000 Oregonians.

Approximately 1 in 10 working Oregonians are employed by our industry in normal times. During March and April, the hospitality industry lost approximately 120,000 of the industry’s initial 180,000 available jobs. Based on the latest available data, our industry has been able to recover approximately 60,000 of the 120,000 jobs lost.

The following comments represent our best attempt to assist Oregon OSHA in finalizing a temporary standard which can be easily understood and widely embraced. We believe in the importance of working together to mitigate transmission rates in public and private settings and get Oregon’s hospitality industry back on track. It should come as no surprise that safety and sanitation is in our DNA. Many of the proposed details within the rule are already commonplace for Oregon’s hospitality industry and we will do our part to demonstrate how safety for our employees and guests remains our number one priority during COVID-19 and beyond.

Our charge collectively is to make sure the final temporary COVID-19 standard makes sense and can be practically applied to workplace environments. We are living with this virus in our communities across Oregon and you have our commitment to mitigate virus spread while we do our best to save as many hospitality livelihoods as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Brandt", written in a cursive style.

Jason Brandt
President & CEO
Oregon Restaurant & Lodging Association

Scope and Application

After careful review of Subsection 1, it seems clear Oregon’s restaurant and lodging properties will need to adhere to Subsection 2 of the temporary rule designed for all workplaces. Subsections 3 and 4 reference heightened and exceptional risk workplaces and based on the examples provided in the draft rule, it does not appear to apply to Oregon’s hospitality industry. Subsection 1(b) provides examples of professions deemed to be heightened risk environments. The term “not limited to” is used when providing these examples. Before finalizing the draft rule we recommend Oregon OSHA list out all heightened risk workplaces and exceptional risk workplaces so there is no confusion whatsoever as to whether a business operation must follow Subsection 2, Subsection 3, or Subsection 4 or a combination thereof.

COVID-19 Requirements for All Workplaces

Social distancing rules as described in Subsection 2 are commonplace in Oregon’s restaurant and lodging industries. Face coverings are worn by all employees. 6 feet of distance is not a luxury afforded to those in the service industry and as such, social distance when possible and face coverings are the standard. The Oregon Health Authority’s weekly report notating where workplace outbreaks are taking place helps substantiate the effectiveness of face coverings in the hospitality industry. With few exceptions, workplace outbreaks are not a regular occurrence in Oregon’s restaurant and lodging establishments. In addition to face coverings, staff working in the back of the house are commonly providing as much space as realistically possible while performing tasks associated with their positions.

Subsection 2 also references a Social Distancing Officer be designated for all workplaces with at least 25 employees working at any time. We would respectfully request that all employers in environments where face coverings are worn by all employees have the option to designate an employee as a Social Distancing Officer but not have it be a mandatory requirement by Oregon OSHA. An optional policy in this regard for all fully compliant face covering environments (such as restaurants and a number of lodging facilities) would complement the social distancing and face coverings sections which provide face coverings as an alternative to social distance when necessary for specific workplaces.

Regarding Medical Removal, we would like to express ORLA’s full support for Exception 2 as stated in the current draft rule. In most instances, it will not be possible to reassign service employees in restaurants and hotels to jobs which do not require interaction with other employees or customers. As a result, thousands of restaurant and lodging establishments may be required to send employees home in the event a medical provider or public health official recommends isolation or quarantine. Exception 2 acknowledges the current reality facing Oregon’s hospitality industry. Outside of already established Paid Sick Leave and Paid Family Leave benefits where applicable, there is simply no reasonable way to add additional paid reassignment leave as an additional hospitality employer requirement. Exception 2 is warranted given the massive revenue losses in Quarter 2 of 2020 compared to Quarter 2 of 2019 and ongoing net operating losses being absorbed by so many in our industry to keep Oregonians employed.

Conclusion

We greatly appreciate the ongoing working relationship with Oregon OSHA. As the date of implementation quickly approaches for a new temporary rule, we would like to encourage the Oregon OSHA Rulemaking Team to provide reasonable time for Oregon’s workplaces to adopt the standards and requirements being expected of them. While a specific date to publish the final temporary rule may be desired, it may be prudent to also create an effective date further out that works to assist associations with the important work of providing education and guidance to workplaces within their industries. Any time provided between the published date of the final temporary rule and the effective date would be greatly appreciated.

This concludes our comments. Thank you again for the opportunity to provide feedback.