

Oregon OSHA's **Draft**  
COVID-19 Temporary Standard

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**Draft Date: September 25, 2020**

**(1) Scope and Application**

- (a) This rule applies to all workplaces. For clarity and ease of reference, this rule refers to “COVID-19” when describing exposures or potential exposures to SARS-CoV-2, the virus that causes Coronavirus Disease 2019.
- (b) Subsection (4) of this rule and the requirements thereunder are applicable to all exceptional risk workplaces. In addition to subsection (4) requirements, employers of exceptional risk workplaces must also implement and adhere to the COVID-19 Requirements for All Workplaces in accordance with subsection (3) of this rule. For purposes of this rule, “workplaces at exceptional risk,” include any setting where an employee (including temporary and part-time employees) performs one or any combination of the following job duties listed under (1)(b)(A) of this rule.
  - (A) Exceptional risk workplace job duties include any of the following:
    - (i) Direct patient care or environmental decontamination services in a healthcare setting;
    - (ii) Aerosol-generating healthcare or postmortem procedures;
    - (iii) Emergency first responder activities;
    - (iv) Handling, packaging, cleaning, processing, or transporting human remains or human tissue specimens or laboratory cultures collected from an individual suspected or known to have COVID-19.

**(2) Definitions**

- (a) Aerosol-generating healthcare or postmortem procedure – means a medical, dental, or postmortem procedure on human patients or remains that is likely to result in exposure to small droplet nuclei in high concentration, presenting a risk for airborne transmission of COVID-19.
- (b) Common areas – means building lobbies, reception areas, waiting rooms, bathrooms, break rooms, eating areas, smoking areas, locker rooms, bathing areas, transit lounges, conference rooms, or other locations indoors or outdoors that multiple individuals may use or congregate.
- (c) Direct patient care – means any employee job duties that include direct physical contact with a patient during the delivery of health care services (mental or physical). A worker performs direct patient care under the authority granted by a license or certification issued by federal, state, or local entities to provide health care services within the scope of practice. The worker may be providing direct patient care under their own licensure or certification, or may be providing care under the supervision of a licensed or certified worker. Workers involved in

direct patient care include, but are not limited to physicians, physician assistants, nurses, dentists, dental hygienists, physical or occupational therapists, chiropractors, and other workers who otherwise provide in-person health care services.

- (d) Emergency first responder activities – means those job duties that require an employee to be able to arrive first and provide assistance at the scene of an emergency, such as an accident, fire, natural disaster, including, but not limited to law enforcement officers, firefighters, emergency medical technicians, and paramedics. Emergency first responder activities under this section do not include tasks where only first aid is provided in accordance with OAR 437-002-0161.
- (e) Environmental decontamination services – means the work performed by janitorial, custodial, maintenance, or similar employees who are responsible for cleaning equipment, surfaces, or other items in direct patient care healthcare settings. This includes routine and non-routine cleaning or disinfecting of high-touch surfaces as defined by this rule, equipment, or procedural tools that are used in patient care areas in healthcare settings, including those settings in which aerosol-generating procedures are performed.
- (f) Face covering – means a cloth, polypropylene, paper or other masks, face shield, or face covering that covers the nose and the mouth and that rests snugly above the nose, below the mouth, and on the sides of the face. A covering that incorporates a valve that is designed to facilitate easy exhalation or mesh masks or other covers with openings, holes, visible gaps in the design or material, or vents are not adequate masks, face shield, or face coverings because they allow droplets to be released from the mask.
- (g) Mask – means a U.S. Food and Drug Administration (FDA) cleared surgical, medical procedure, dental, or isolation mask (commonly referred to as a “surgical mask”). Masks are medical grade masks that function as a physical barrier to protect workers from hazards such as splashes of large droplets of blood or bodily fluids; they do not provide reliable protection to the wearer against aerosols or airborne pathogens.
- (h) Face shield – means a transparent plastic shield that covers the wearer’s forehead, extends below the chin, and wraps around the sides of the face. Devices that place a shield in front of only the user’s nose and mouth do not meet any definition of a masks, face shield, or face covering.
- (i) Hand hygiene – means the cleaning, sanitizing, or disinfecting of one’s hands by using standard handwashing methods with soap and running water, antiseptic hand wash, antiseptic hand rub (alcohol-based hand sanitizer including foam or gel), or surgical hand antisepsis. Handwashing facilities must be provided in accordance with OAR 437-002-0141(5).
- (j) High-touch surface – means equipment or surfaces that are handled frequently throughout the day by multiple individuals. High-touch surfaces can include, but are not limited to: countertops, credit card terminals, door knobs, digital kiosks,

touch-screen enabled devices, light switches, handrails, elevator control panels, steering wheels.

- (k) Personal protective equipment (PPE) – means specialized clothing or equipment worn by a worker for protection against a hazard. General work clothing (for example, uniforms, pants, shirts or blouses) not intended to function as protection against a hazard for the user is not considered to be PPE.
- (l) SARS-CoV-2 – refers to a specific betacoronavirus (MERS-CoV and SARS-CoV are other betacoronaviruses) that causes what has been designated as the Coronavirus Disease 2019 (COVID-19).
- (m) Shared equipment – means devices or tools that are used by multiple employees or non-employees including, but not limited to, elevators, escalators, computer keyboards, and work vehicles.
- (n) Suspected to be infected with SARS-CoV-2 – means a person who has signs or symptoms of COVID-19 disease but has not tested positive for SARS-CoV-2 infection and no alternative diagnosis has been made.

### **(3) COVID-19 Requirements for All Workplaces**

Except as otherwise provided by this rule, the following requirements apply to all workplaces.

- (a) Physical distancing. The employer must ensure that 6-foot physical distancing between all individuals in the workplace is implemented as follows:
  - (A) Both the work activities and the workplace must be designed to eliminate the need for any worker to be within 6-feet of another individual in order to fulfill their job duties. In any instance where employees and other individuals cannot be separated by at least 6-feet, whether indoors or outside, the employer must ensure that all affected workers use masks, face shields, or face coverings in accordance with (3)(c) of this standard;
  - (B) A vehicle carrying individuals who are not in the same household is limited to half its legal passenger capacity or two individuals total, whichever is higher.

*Note: Additional requirements related to vehicles are contained in (3)(b)(D) of this rule.*

- (b) Mask, face shield, and face covering requirements. The employer must ensure that all individuals (including customers, vendors, patrons) 5 years of age and older and not actively eating, drinking, or smoking at the workplace or other premises subject to the employer's control wear a mask, face shield, or face covering as defined by this rule whenever the 6-foot physical distancing requirement described in (3)(a) cannot be consistently assured.
  - (A) The employer must provide masks, face shields, or face coverings for employees at no cost to the worker. If employees wish to wear their own mask, face shield, or face covering instead of those provided by the employer, the employer may allow them to do so (but is not required to allow them to do so).

- (B) Indoor work settings. In any room where the available area is less than 35 square feet per individual, the employer must ensure that all individuals in the space wear masks, face shields or masks, face shield, or face coverings.
  - (C) Whenever an employee is working with at least one other individual in an indoor room that is smaller than 200 square feet, all affected individuals must wear a mask, face shield, or face covering.
  - (D) When employees are transported in a motor vehicle for work purposes, regardless of the travel distance or duration involved, all employees must wear masks, face shields, or face coverings.  
*Note: The requirement for mask, face shield, or face covering use inside vehicles does not apply when all of the individuals within the vehicle are members of the same household.*
- (c) Sanitation. All employers must identify and target all common areas accessible to employees or the public for regular cleaning or sanitization.
- (A) When occupied or otherwise used by any individual, within 24-hours, the employer must clean or sanitize the following areas, equipment, and surfaces:
    - (i) Common areas as defined by this rule;
    - (ii) Shared equipment used to perform tasks; and
    - (iii) All high-touch surfaces as defined by this rule.
  - (B) Employers must provide employees with supplies necessary to sanitize more frequently and perform hand hygiene before using shared equipment, applying cosmetics, eating, or smoking.
- (d) Posting requirements. Employers must post the “COVID-19 Hazards Poster” provided by Oregon OSHA in a central location where workers can be expected to see it. Employees working remotely must be provided the same information through electronic or equally effective means.
- (A) In addition to the requirement of (3)(d), the employer must post the “COVID-19 Hazards Poster” provided by Oregon OSHA in a conspicuous manner in the following areas:
    - (i) Any points of entry into an indoor portion of the workplace;
    - (ii) Any points of entry into a bathroom, whether a single occupant or multi-occupant bathroom with multiple stalls or urinals, that is used by employees or other individuals at the workplace; and
    - (iii) Any points of entry or similarly conspicuous area within lunchrooms, breakrooms, or other areas designated by the employer that workers eat or smoke.
- (e) Building operators. Those employers who operate or otherwise control buildings where the employees of other employers work must take the following steps in common areas to the extent that they have control over such areas:
- (A) Posting in areas where masks, face shields, or face coverings are required; and

- (B) Must ensure that all sanitation requirements under (3)(c) of this rule are met.
- (f) Ventilation requirements. The employer must use existing heating, vacuuming, and air conditioning (HVAC) system(s) at the workplace to circulate air whenever there are employees in the workplace.
  - (A) In accordance with the manufacturer's instructions and the design specifications of the HVAC system and as frequently as is necessary, the employer must ensure the following:
    - (i) All air filters used in the HVAC system are maintained and replaced to ensure the proper function of the ventilation system; and
    - (ii) All intake ports that provide outdoor or fresh air to the HVAC system are cleaned, maintained, and cleared of any debris that may affect the function and performance of the ventilation system.
- (g) Distancing officer. All employers must designate at least one individual or employee per establishment who will be responsible for assisting the employer in implementing the employer's workplace policies related to physical distancing; mask, face shield, or face covering use; and COVID-19 sanitation procedures. The employer may designate itself as the distancing officer for an establishment.

*Note: A distancing officer may perform other job duties as long as those additional duties do not interfere with their responsibilities as the employer's distancing officer.*
- (h) Exposure risk assessment. All employers must conduct a COVID-19 exposure risk assessment, without regard to the use of personal protective equipment or masks, face shield, or face coverings.
  - (A) This risk assessment must address the following questions related to assessing potential employee exposure to COVID-19 in the workplace:
    - (i) Can employees telework or otherwise work remotely? How are employees encouraged or empowered to use those distance work options to reduce COVID-19 transmission at the workplace?
    - (ii) What are the anticipated working distances between employees? How might those physical working distances change during non-routine work activities?
    - (iii) What are the anticipated working distance between employees and other individuals? How might those working distances change during non-routine work activities?
    - (iv) How has the workplace or employee job duties or both been modified to provide for at least 6-foot physical distancing between all individuals?

- (v) What is the mask, face shield, or face covering policy for COVID-19 at the workplace? How is this policy communicated to employees and other individuals at the workplace?
  - (vi) How have employees been informed about the workplace policy and procedures related to reporting COVID-19 signs and symptoms? How will employees who are identified for quarantining or isolation as a result of medical removal under (3)(l) of this rule be provided with an opportunity to work at home?
  - (vii) How have engineering controls such as ventilation (whether local exhaust ventilation systems, airborne infection isolation room, or general building HVAC systems) and physical barriers been used to minimize employee exposure to COVID-19?
  - (viii) How have administrative controls (such as foot-traffic control) been used to minimize employee exposure to COVID-19?
  - (ix) What is the procedure or policy for employees to report workplace hazards related to COVID-19? How are these reporting procedures or policies communicated to employees?
  - (x) How are sanitation methods related to COVID-19 implemented in the workplace? How have these sanitation practices been explained to employees and other individuals that enter the workplace?
  - (xi) How has industry-specific public health guidance from the Oregon Health Authority been implemented in addition to this rule? How are periodic updates to such guidance documents incorporated into the workplace on an on-going basis?
  - (xii) For multiemployer worksites, how are the physical distancing; masks, face shield, or face covering requirements; and sanitation provisions required under (3)(a), (3)(b), and (3)(c) of this rule respectively, communicated to and coordinated between all employers and their affected employees?
- (B) The exposure risk assessment must involve feedback and participation from employees. This feedback may be achieved via a safety meeting, safety committee, distancing officer, supervisor, process negotiated with the exclusive bargaining agent (if any), or any other similarly interactive process.
- (C) Each employer that has more than ten employees statewide (including temporary and part-time workers) or that is covered by (1)(b) of this rule (workplaces at exceptional risk) must record their COVID-19 exposure risk assessment in writing by documenting the following information:
- (i) The name(s), job title(s), and contact information of the person(s) who performed the exposure risk assessment;

- (ii) The date the exposure risk assessment was completed;
  - (iii) The employee job classifications that were evaluated; and
  - (iv) A summary of the employer's answers to each of the applicable exposure risk assessment questions listed in (3)(h)(A)(i)-(3)(h)(A)(xii).
- (i) Employee information and training. This information and training must be provided in a manner and language understood by the affected workers. Employers must solicit feedback from their employees regarding the elements of (3)(i)(A)-(3)(i)(E) of this rule. This feedback may be achieved via a safety meeting, safety committee, distancing officer, supervisor, process negotiated with the exclusive bargaining agent (if any), or any other similarly interactive process. Affected workers must be provided with the opportunity to provide input about their workplace in regards to the following elements:
  - (A) Physical distancing requirements as they apply to the employee's workplace and job function;
  - (B) Masks, face shield, or face covering requirements as they apply to the employee's workplace and job function;
  - (C) Sanitation requirements as they apply to the employee's workplace and job function;
  - (D) COVID-19 signs and symptom reporting that applies to the employee's workplace; and
  - (E) Medical removal as required by subsection (3)(l) of this rule.
- (j) COVID-19 infection notification process. Excluding settings where patients are hospitalized on the basis of being known or suspected of being infected with COVID-19, the employer must establish a process to notify affected employees that they had a work-related contact with an individual who has tested positive for COVID-19. This notification process must include the following elements:
  - (A) A mechanism for notifying affected employees within 48-hours of the employer being made aware of the positive test result that an individual with COVID-19 was present in the workplace or otherwise may have had contact with its worker(s); and
  - (B) This notification process must be established in accordance with all applicable federal and Oregon laws and regulations.
- (k) COVID-19 testing for workers. Whenever the Oregon Health Authority or a Local Public Health Authority indicates that testing within the workplace is necessary, the employer will cooperate by making employees and appropriate space available at no cost to the employees. The employer is not, however, expected to cover the cost of the testing itself or of any travel if the employer is not requesting the test. Nothing in this provision reduces or otherwise modifies the employer's responsibility to cover the costs (including testing, employee time, and travel) of testing conducted at the direction of the employer.
- (l) Medical removal. Whenever the Oregon Health Authority or local public health agency or medical provider recommends employee quarantine or isolation due to COVID-19, such as through contact tracing activities, the affected worker(s)

must be reassigned to duties that do not involve in-person contact with other workers or the public. Such reassignment must continue until the need for medical removal no longer exists based on guidance from the employee's medical provider or an appointed public health authority.

- (A) Whenever an employee participates in such reassignment of duties, whether as a result of the requirements of this rule or because the employer chooses to take additional precautions, the affected worker(s) must be entitled to return to their previous job duties without any adverse action as a result of participation in COVID-19 quarantining or isolation activities.
- (B) Decisions regarding testing and return to work must be made in accordance with the direction of the involved public health authorities and must be otherwise consistent with guidance from the employee's medical provider.

*Note: Employees are protected from discrimination as described in under ORS 654.062(5). This includes protections for opposing any practice forbidden under the Oregon Safe Employment Act and related statutes and rules (including this temporary COVID-19 rule), making a complaint or causing any proceeding to be instituted under the Oregon Safe Employment Act, or exercising any rights under the law, including those conferred by this temporary COVID-19 rule.*

*Note: Oregon Health Authority requires that individuals with COVID-19 isolate at home and away from other non-quarantined individuals.*

*Note: Unless the infection of a worker is determined by the employer to be "work-related" in accordance with OAR 437-001-0700, the employer need not record on their OSHA300 log(s) the medical removal of an employee required by subsection (3)(l) to quarantine or isolate because of COVID-19.*

- (m) Industry-specific or activity-specific guidance for COVID-19. Industry-specific or activity-specific guidance is included in Appendix A of this rule. When applicable to their workplace and industry, each employer covered by any appendix must implement and otherwise comply with its requirements in addition to the applicable requirements of this rule.

#### **(4) COVID-19 Requirements for Workplaces at Exceptional Risk**

Workplaces identified by subsection (1)(b) of this rule must adhere to the following additional requirements.

- (a) Infection control training. In addition to the employee information and training requirements for all workplaces under subsection (3)(i) of this rule, employers of workplaces at exceptional risk must include infection control training that includes the following provisions:
  - (A) The training is overseen or conducted by a person knowledgeable in the covered subject matter as it relates to the employee's workplace job duties;

- (B) The training material is appropriate in content and vocabulary to the education, literacy, and language of the affected workers; and
  - (C) Provide an opportunity for interactive questions and answers with a person knowledgeable in the training program's subject matter and basic epidemiology as it relates to the workplace and employee job duties.
- (b) Infection control training for employees required under (4)(a) of this rule must include the following elements:
- (A) An explanation of this rule and its applicable provisions;
  - (B) An explanation of contact, droplet, and airborne modes of transmission of COVID-19, including how workers can recognize hazardous work activities that may involve exposure to COVID-19 and how employees can take precautionary measures to minimize their exposure;
  - (C) An explanation of the basic risk factors associated with COVID-19 transmission including, but not limited to behavioral risk factors (this may include non-work activities that are higher-risk activities such as attending large social gatherings; sharing contaminated equipment or items), physiological risk factors, demographic risk factors, and environmental risk factors;
  - (D) An explanation of the employer's exposure risk assessment completed in accordance with subsection (3)(h) of this rule and which employee job classifications, tasks, or job duties were considered as part of that risk assessment;
  - (E) An explanation of the employer's physical distancing; mask, face shield, or face covering requirements; and sanitation policies and procedures at the workplace. Where applicable, this information must include any multi-employer worksite agreements related to the use of common areas and shared equipment that impact employees at the workplace;
  - (F) Information on the types, use, storage, removal, handling, and maintenance of masks, face shields, or face coverings and personal protective equipment (including respirators) provided to employees by the employer; and
  - (G) An explanation of use and limitation of any COVID-19 hazard control measures implemented or installed by the employer. COVID-19 hazard control measures including any engineering, administrative, or work practice controls that eliminate or otherwise minimize employee exposure to COVID-19.
- (c) Infection Control Plan. Each employer covered by subsection (4) of this rule must establish and implement a written infection control plan that is specific to the type of work performed by employees on a facility-by-facility basis. If an employer has multiple facilities that are substantially similar, its plan may be developed by facility type rather than site-by-site so long as any site-specific information that affects employee exposure risk to COVID-19 is included in the plan.

- (d) The infection control plan required under subsection (4)(c) of this rule must contain, at a minimum, the following elements:
  - (A) The name(s) or title(s) of the person(s) responsible for administering the plan. This person must be knowledgeable in infection control principles and practices as they apply to the facility, service, or job operations;
  - (B) A list of all job assignments or worker tasks requiring the use of personal protective equipment (including respirators);
  - (C) A list and description of the specific hazard control measures that the employer installed, implemented, or developed to minimize employee exposure to COVID-19;
  - (D) A description of the mask, face shield, or face covering requirements to be implemented at the workplace, and the method of informing individuals entering the workplace when masks, face shields, or face coverings are required;
  - (E) The procedures the employer will use to communicate with its employees and other employers in multi-employer worksites regarding an employee's exposure to an individual suspected or known to be infected with COVID-19 to whom other workers may have been exposed to. This includes the communication to individuals identified through contact tracing and general communication to the workplace at large;
  - (F) The procedures the employer will use to ensure that there is an adequate supply of masks, face shields, or face coverings and personal protective equipment (including respirators) necessary to minimize employee exposure to COVID-19; and
  - (G) The procedures the employer will use to provide initial training to employees in accordance with subsection (3)(i) of this rule.
- (e) The employer must ensure that a copy of the infection control plan is accessible to employees in accordance with 29 CFR 1910.1020(e).
- (f) An employer's infection control plan must be reevaluated and updated as frequently as necessary to reflect changes in the facility, service, or operation or in response to new technologies, policies, procedures, or guidance documents from the Oregon Health Authority that affect employee exposure to COVID-19. This reevaluation and update of the plan must include involvement from non-managerial, front-line employees who perform activities that reflect the employer's exceptional risk under this rule. Such employees must be consulted through the safety committee or other equally effective interactive mechanisms, or both, regarding the plan's effectiveness, implementation, and areas of possible improvement.
- (g) Enhanced ventilation requirements. The existing HVAC system must supply enough air into all spaces of the building occupied by employees to allow at least 6 air changes per hour (ACH). If the existing ventilation system cannot supply 6 ACH, then the system must be set-up to supply as much air as the system can safely handle depending on the manufacturer's instructions or design specifications.

*Note: How to calculate air changes per hour:*

*Q = air flow rate in cubic feet/hour*

*V = room volume in cubic feet*

*Q / V = Air changes per hour (ACH)*

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Mandatory Appendix A – Industry-Specific and Activity-Specific Guidance for COVID-19