

PMCA Oregon OSHA COVID-19 Temporary Rule Guide 11.2020

Oregon OSHA released their temporary COVID-19 workplace rules that take effect **Monday November 16th, 2020** and will be in effect until May 4th, 2021. These rules apply to ALL workplaces in Oregon. OSHA provided these rules to help employers in Oregon stay open while protecting employees, partners and customers to the greatest extent possible.

This guide gives employers a path to follow and outlines requirements and dates for compliance. Sample policies and a control plan will be available in the coming weeks that can be adapted as businesses develop their plans.

Still to come:

- OSHA Sample Infection Control Plan
- OSHA + PMCA Employee Information and Training Materials
- Sample policies

Deadlines

November 23rd, 2020

- Cleaning and sanitation requirements met
- Posters notifying visitors and employees of the “Masks Required”¹ rule displayed and emailed to remote workers.

December 7th, 2020

- COVID-19 Risk Assessment completed for all worksites
- Infection Control Plans for all work sites
- Includes policies for employees

December 21st, 2020

- Employee training

January 6th, 2021

- Ventilation of HVAC systems maintenance plan created and systems optimized

¹ <https://sharesystems.dhsoha.state.or.us/DHSForms/Served/le2728.pdf>

Planning Guide + Checklist

First - read this guide

Before starting, owners and managers are encouraged to read through this guide to familiarize themselves with the requirements and making note of the deadlines for compliance.

Second - form an accountable COVID-19 Response Team

Find the right people to assign to this task and to be accountable for making sure all the requirements and deadlines are met. Safety committees or safety officers, as well as HR roles, are ideal COVID-19 team members.

Third - set expectations and dates

Plan time and set dates for certain tasks. Setting goals and timelines helps team members be accountable for results. Adjust work schedules as needed to allow for time to complete all the tasks.

Checklists

Getting started

- Form COVID-19 Response Team
- Team members read through Guide and make notes
- Set times and dates for meetings, deliverables and training
- Set expectations for meetings, agendas, accountabilities
- Other:

Task List to comply with Rules

- Physical distancing plans for all work sites and facilities
- Develop advance screening procedure for work sites
- Appropriate mask, face covering, or face shields are required and to be provided by employers - plan for ensuring stock and policy
- Cleaning and sanitizing schedule for regular cleaning and sanitizing
- Post and distribute required posters
- Ventilation optimization of HVAC system and maintenance schedule
- Conduct Exposure Risk Assessment meeting, and
- Write Exposure Risk Assessment plan (use OSHA provided Risk Assessment questionnaire)
- Determine Infection Control Plan, and



- Write Infection Control Plan
 - Plan Information and Training for Employees using OSHA and PMCA Training materials
 - Adapt and follow COVID-19 Testing, Medical Removal, Quarantine, Isolation and Return to Work Policies
 - Other:
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Requirements for All Workplaces²

Ensure physical distancing at all work places and work sites

Work activities and workflow must be designed so employees are not working within 6 feet of each other unless the employer can show that is not feasible or possible.

Appropriate mask, face covering, or face shield required for everyone

Employers must ensure everyone in the workplace or work areas under the employers control wears the appropriate mask, face covering or face shield in accordance with the Oregon Health Authority's guidance³. This includes all employees, vendors, patrons, customers, contractors, etc.

For most employers not in healthcare settings, well-fitted cloth face coverings or disposable face coverings are the appropriate choice (see definitions at the end of this guide). Face shields should be available but only be used as an accommodation as they have not been proved to be effective. While reasonable accommodations must be considered, such an accommodation does not include exempting anyone from wearing an appropriate mask, face covering, or face shield.

- **Employers must provide appropriate masks, face coverings, or face shields for employees at no cost.** Employers can require employees to wear appropriate masks, face coverings, or face shields they provide, or they can allow employees to wear their own as long as they fit the guidelines. Some workers may need or choose to wear a respirator, which must be allowed under the "voluntary use" provision of the Respiratory Protection Standard⁴. If the respirator has an exhalation valve, appropriate masks, face coverings or face shields must be worn in over the vent.
- **Employees must wear appropriate masks, face coverings, or face shields when riding in vehicles together for work purposes** regardless of the distance travelled or time in the vehicle together.

Cleaning and sanitizing

Employers must regularly clean and sanitize all common areas, shared equipment, and high-touch surfaces used by employees and the public.

Regular cleaning is once every 24 hours if the workplace is occupied less than 12 hours per day, or once every 8 hours if the workplace or work site is occupied more than 12 hours per day.

² <https://osha.oregon.gov/OSHARules/div1/437-001-0744.pdf>

³ <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288K.pdf>

⁴ <https://osha.oregon.gov/OSHARules/div2/div2I.pdf#1910-134>

Exception: If workplaces are minimally staffed with “drop-in” availability, regular cleaning schedules can be followed as long as staff are required to sanitize their work spaces before use.

- Employers must provide supplies and reasonable time necessary if employees want to clean and sanitize work areas more frequently than required.
- Employers must provide supplies and reasonable time necessary to wash hands or use hand sanitizer before using shared equipment.

COVID-19 exposure: Employers must clean and disinfect any common areas, high-touch surfaces, and any shared equipment used by any individual known to be positive for COVID-19. It is recommended these areas or work sites be closed for 24 hours prior to cleaning and disinfecting. If an area has not been used for 7 continuous days or more can be cleaned as usual.

Posters

Employers must post the “COVID-19 Hazards Poster”⁵ provided by OR OSHA, and the “Masks Required”⁶ poster from OHA. These must be in a central area where employees and visitors are expected to see them. Posters can be emailed to remote employees. Posters must be displayed and distributed by November 23rd, 2020.

Ventilation

By January 6, 2021 employers must optimize the amount of outside air circulating through existing HVAC systems to the greatest extent possible when operating as designed. Air must be circulating at optimal levels any time employees or visitors are in the workplace and the outdoor air quality index is “moderate” or better. Employers are not required to install new ventilation equipment, and are not required to meet the provisions of the ANSI/ASHRAE standards 62.1 and 62.2⁷.

In addition, employers must:

1. Maintain and replace air filters as necessary to ensure proper function of the ventilation system, and
2. All intake ports that provide outside air the the HVAC system are cleaned, maintained and cleared of any debris that may affect function of the system.

Exposure Risk Assessment

No later than December 7th, 2020, all employers must conduct a COVID-19 exposure risk assessment without regard to the use of appropriate masks, face coverings, or face shields. If

⁵ <https://osha.oregon.gov/OSHAPubs/5504.pdf>

⁶ <https://sharingsystems.dhsoha.state.or.us/DHSForms/Served/le2728.pdf>

⁷ <https://www.ashrae.org/about/news/2019/ashrae-releases-updated-versions-of-standard-62-1-and-62-2>

an employer has multiple work facilities that are substantially similar, assessments can be done by facility type rather than site-by-site as long as any site-specific information that affects employee exposure risk to COVID-19 is included in the assessment.

- Risk assessments must involve participation and feedback from employees. This can be done via a safety meeting, safety committee, supervisor, process negotiated with a bargaining agent if any, or any other similarly interactive process.
- Employers with 10 or more employees statewide, including part-time and temporary employees, or are otherwise covered by this rule, must record their COVID-19 exposure risk assessment in writing by documenting the following:
 - Names, job titles, contact information of people who performed the risk assessment
 - Date the assessment was completed
 - Employee job classifications that were evaluated, and
 - Summary of answers to each applicable risk assessment question provided (see template provided)

Infection Control Plan

No later than December 7th, 2020, employers must establish and implement an infection control plan based on the risks identified in the assessment. Controls may include but are not limited to ventilation, staggered shifts, redesigning the workplace, reducing use of shared surfaces and tools, limiting the number of employees and other individuals in the work areas, PPE needed, etc. If an employer has multiple facilities that are substantially similar, the infection control plan can be developed by facility type as long as site-specific information is taken into account. Employers may also rely on materials developed by associations, licensing agencies, and franchisors to assist with compliance as long as mechanisms for appropriate employee feedback and involvement are included.

In addition:

- Employers with 10 or more employees, including part-time and temporary, or otherwise covered, must document their infection control plan in writing and make it accessible to employees
- Infection Control Plans must have, at a minimum, all the following information
 - List of job assignments or worker tasks requiring the use of PPE
 - Procedures for ensuring there is adequate supply of appropriate masks, face coverings, face shields, and PPE
 - List and description of hazard control measures installed, implemented, or developed,

- Description of the employer's appropriate masks, face coverings, face shields, and PPE workplace requirements and how individuals entering the workplace will be notified of the requirement,
- How the employer will communicate to employees and other employers in multi-employer worksites regarding worker's exposure to an individual known or suspected to be infected with COVID-19, including communication to individuals identified through COVID-19 contract tracing and general communication to the workplace at large, and
- How the employer will provide information and training to employees

Employee Information and Training

No later than December 21st, 2020, employers must provide workers with information and training regarding COVID-19. This can be done remotely but must be done in a manner and using language understood by the affected workers. Employers must ensure employees can freely give feedback on the topics covered.

Training must include:

- Physical distancing requirements
- Appropriate masks and face coverings requirements, and face shields accommodation
- Sanitation requirements
- COVID-19 signs and symptoms reporting procedures
- COVID-19 infection notification process
- Medical removal as required
- Characteristics and methods of transmission of SARS-CoV-2
- Symptoms of the COVID-19 disease
- Asymptomatic and presymptomatic transmission of COVID-19
- Safe and healthy work practices and control measures, including but not limited to, physical distancing, sanitation, and disinfection practices

COVID-19 infection notification process

Employers must establish a process to notify exposed and affected employees that they had contact with an individual who has tested positive for COVID-19.

This notification process must include the following elements:

- A mechanism for notifying exposed and affected employees within 24 hours of the employer being made aware, and
- This notification process must be established and implemented in accordance with all applicable federal and Oregon laws and regulations
- Oregon OSHA has provided a model procedure for notification

Exposed employees are those who had close contact with an infected person as defined by the CDC⁸ or OHA. Affected employees are those who may not have had close contact but were in the same facility or work area but may not have had close contact with the infected person.

COVID-19 testing for workers

Employers must cooperate with local public health agencies or OHA by making employees and appropriate space available at no cost to the workers whenever diagnostic testing within the workplace is necessary. If such testing is conducted at the employer's own direction, the employer is responsible for covering the costs of testing including but not limited to the COVID-19 test itself, employee time, and employee travel. However, if the employer is not requesting the test, the employer is not expected to cover the direct cost of such testing or of any involved employee travel.

Medical removal

Any time the Oregon Health Authority, local public health agency, or medical provider recommends an employee be restricted from work due to quarantine or isolation for COVID-19, such as through identification during contact tracing activities, employers must direct the employee to isolate at home and away from the workplace.

- Other than the obligation to remove such employees from the workplace, the employer has no obligation to enforce the employee's quarantine or isolation.
- If an employee is quarantined or isolated for COVID-19, the employer must allow the employee to work at home if possible and the employee is well enough to do so.
- Whenever an employee is in quarantine or isolation, whether as a result of the requirements of this rule or because the employer chooses to take additional precautions, they are entitled to return to their previous job duties if still available and without any adverse action as a result of participation in COVID-19 quarantine or isolation activities. The prohibition on "adverse action" does not require the employer to keep a job available that would not otherwise have been available even had the employee not been quarantined or isolated, but it does mean that the employer cannot fill the job with another employee and thereby make it unavailable.
- Medical removals do not need to be recorded in the OSHA 300 log unless their infection is determined to be work-related.
- Decisions regarding testing and return to work after an employee participates in COVID-19 quarantine or isolation activities must be made in accordance with applicable public health guidance and must be otherwise consistent with guidance from the employee's medical provider. A negative COVID-19 test or a separate contact with the medical provider is not required.

⁸ <https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/appendix.html>

- Employees are protected from discrimination or retaliation⁹. This includes protections for actions against employees for opposing any practice forbidden under the Oregon Safe Employment Act and related statutes and rules (including this temporary rule for COVID-19), 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.
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⁹ <https://www.oregonlaws.org/ors/654.062>

Requirements for Construction Organizations

Construction employers must follow all the general rules in addition to the following sector-specific guidance.

Advance Screening

Each construction employer who controls access to a site must develop and implement a system to screen employees and visitors accessing the site using a pre-screening checklist consistent with the recommendations from the CDC.

Employers may opt to have a more regimented screening process that includes taking temperatures and having employees and visitors acknowledge the screening criteria prior to entering a work site.

Physical Distancing Measures

Specifically for construction employers:

- Ensure workers maintain at least 6 feet of physical distance between themselves and co-workers
- Limit work in occupied areas of a house or other structure to only those tasks that are strictly necessary
- When it's not practical to maintain a distance of at least 6 feet, ensure workers remain separated to the largest degree possible and that time working in close proximity is kept as short as possible.

Construction employers are encouraged to redesign workflow including access to stairwells, floor levels, etc., to maximize distance between workers. One-way routes should include signage.

Appropriate masks, face coverings, face shields

Construction employers must follow the OHA statewide Mask, Face Covering, Face Shield Guidance. If the guidance is no longer in effect or available, employers must require employers, patrons and other visitors five years of age or older to wear appropriate masks, face coverings, and face shields in all indoor spaces and in outdoor spaces where 6 feet cannot be maintained.

Definitions

Common areas – means building lobbies, reception areas, waiting rooms, restrooms, 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 that employers operate or control.

Employee – means any individual, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise, subject to the direction and control of an employer; any salaried, elected and appointed official of the state, state agencies, counties, cities, school districts and other public corporations; and any individual who is provided with workers' compensation coverage as a subject worker pursuant to ORS chapter 656, whether by operation of law or election.

Employer – means any person who has one or more employees, any sole proprietor or member of a partnership who elects workers' compensation coverage, or any corporation in relation to the exposure of its corporate officers except for corporations without workers' compensation coverage under ORS 656.128 and whose only employee is the sole owner of the corporation, or any successor or assignee of an employer as described in OAR 437-0015.

Employment, Place of – has the meaning provided in OAR 431-0015 and excludes any place where the only employment involves workers not covered by workers' compensation and employed in or around a private home, as well as any corporate farm where the only employment involves the farm's family members.

Face covering – means a cloth, polypropylene, paper or other 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. Coverings that incorporate 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 appropriate face coverings (even if otherwise appropriate for respiratory protection) because they allow droplets to be released from the covering.

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 the definition of a mask, face covering, or face shield. Face shields are normally used as protection for the face and eyes but are a compliant (although not preferred) means of "source control" in relation to COVID-19.

Feasibility – refers to the ability of an employer to implement any requirement in a rule. Oregon OSHA rules never prohibit work. Whether feasibility is mentioned in a provision of the rule or not, if the employer can demonstrate that it is functionally impossible to comply or if doing so

would prevent completion of the work, the employer need not comply, but must take any available reasonable alternative steps to protect the employees involved.

Filtering facepiece respirator -- means a tight-fitting, negative pressure, particulate respirator, where the particular filter is the facepiece itself. Such respirators are often referred to as “dust masks,” but dust masks that are not certified by the National Institute for Occupational Safety and Health are not respirators. The most common filtering facepiece respirators for general use are known as N-95 respirators.

Hand hygiene – means the cleaning, sanitizing, or disinfecting of one’s hands by using standard hand washing methods with soap and running water, antiseptic hand wash, antiseptic hand rub (alcohol-based hand sanitizer including foam or gel), or surgical hand antisepsis.

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, doorknobs, digital kiosks, touch-screen enabled devices, light switches, handrails, elevator control panels, and steering wheels.

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.

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.

Respirator – means a type of personal protective equipment that protects against respiratory hazards by removing specific air contaminants from the ambient (surrounding) air or by supplying breathable air from a safe source. Respirators that remove contaminants from the ambient air are called air purifying respirators. Respirators that supply air from a safe source other than the ambient air are called atmosphere-supplying respirators. Masks, face coverings and face shields are not respirators.

SARS-CoV-2 – refers to a specific betacoronavirus (MERS-CoV and SARS-CoV are other beta coronaviruses) that causes what has been designated as Coronavirus Disease 2019 (COVID-19). Temporary Rule Addressing COVID-19 Workplace Risks Division 1 AO 3-2020 Oregon Administrative Rules Oregon Occupational Safety and Health Division 437-001-0744 (2)(w) 6 437-001-0744 (3)(b)



Shared equipment – means devices or tools that are used by multiple employees or other individuals including, but not limited to, elevators, escalators, computer keyboards, and work vehicles.

Source control – means the use of protective equipment or other measures such as face coverings to prevent the spread of illness from a potentially infectious person to others. A typical example of source control for COVID-19 is to use a mask or face covering to limit the spread of respiratory droplets and aerosols from the wearer to others. Respirators can be used as source control in addition to providing protection for the wearer, but only if the respirator does not have an exhalation valve (respirators with an exhalation valve can also be worn in combination with appropriate source control).

Suspected to be infected with COVID-19 – 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 consistent with Oregon Health Authority definitions.