

# Oregon OSHA's Draft COVID-19 Temporary Standard

Written comments related to this draft temporary standard should be submitted as soon as possible to ensure appropriate consideration; comments will be accepted through August 31, to Oregon OSHA's rulemaking team at: [tech.web@oregon.gov](mailto:tech.web@oregon.gov)

## **COVID-19 Temporary Standard**

**Draft Publication Date:** August 17, 2020

### **(1) Scope and Application**

- (a) Subsection (2) of this rule applies to all workplaces, reflecting the broad potential for exposure to SARS-CoV-2, the virus that causes Coronavirus Disease 2019 (for clarity and ease of reference, the remainder of this rule refers simply to "COVID-19" in describing such exposures or potential exposures).
- (b) Subsection (3) of this rule includes additional requirements for those workplaces with a heightened risk of exposure to COVID-19 either because they are listed in (1)(c) below or because they perform a close-in tactile person-to-person work activity that falls outside those activities covered by (1)(c) below. This includes any job duty or work operation that requires an employee to be within 6-feet of another individual for longer than 15 minutes and that includes the direct touching of the individual with the employee's hands or by the use of instruments or tools (examples of such activities include, but are not limited to tattooing, massage, hair dressers, barbers, beauticians, and make-up artists).
- (c) Subsection (4) of this rule includes additional requirements for those workplaces with an exceptional risk of exposure to COVID-19 because they are involved in at least one of the following:
  - (A) Direct patient care in a healthcare setting;
  - (B) Aerosol-generating healthcare or postmortem procedures;
  - (C) Emergency first responder activities;
  - (D) Handling, packaging, cleaning, processing, or transporting of "contaminated materials" as defined by this rule; or
  - (E) 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) COVID-19 Requirements for All Workplaces**

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

*Exemption: Any educational establishment that develops and fully implements a written program consistent with guidance issued by the Oregon Department of Education is*

*exempt from the requirements of this rule with regard to those activities covered by such guidance.*

(a) Social Distancing. **The employer must ensure that 6-foot 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 duties. To the extent that the employer determines and can demonstrate that such separation is not a practical option, **the employer must ensure that face coverings are worn** in accordance with (2)(b) of this subsection and that as much distance as practical is maintained between individuals.
- (B) The 6-foot distancing requirement of (2)(a)(A) has been met when employees are separated from other individuals by an impermeable barrier that creates a “droplet buffer” that provides at least 6-feet in distance between the mouths of the affected individuals. Such a droplet buffer must be calculated using the shortest distance around or through gaps in the barrier.



*Note: For purposes of such calculations, the top of the face should be assumed to be at the top of the head and the bottom of the face should be assumed to be 12 inches below the top of the head. Given the inevitable likelihood of at least minor side-to-side movement, the distance from the center to the side of the face should be assumed to be 6 inches.*

*Example 1: Two individuals work side by side, standing, on a production line. Their work stations are 3-linear-feet apart. However, they are separated by an impermeable barrier that extends from 2-feet above the floor up to 9-feet above the floor and that extends from 2-feet in front of them to 4-feet behind them. The workers’ faces will always be separated by a “droplet buffer” of at least 6 feet:*

- *To the front, they are separated by 2-feet plus 3-feet plus 2-feet for a total of 7-feet.*
- *To the rear, they are separated by 4-feet plus 3-feet plus 4-feet for a total of 11-feet.*
- *Over the barrier, the separation will depend on the height of the individuals but even two 7-foot tall individuals would be separated by 2-feet plus 3-feet plus 2-feet for a total of 7-feet.*
- *Below the barrier, the separation will again depend upon the height of the individuals but even two 4-foot-9-inches tall individuals would be separated by 1-foot-9-inches plus 3-feet plus 1-foot-9-inches for a total of 6-feet-six-inches. Therefore, the employer would be in compliance with the 6-foot distancing requirement.*

*Example 2: A retail worker is protected by a barrier at the checkout stand that is hung from the ceiling and that extends from the 36-inches counter to a space 4-feet*

above the counter; the barrier is 30-inches wide, as is the counter itself, separating the workers from the customers:

- The distance below the barrier is not an issue because the barrier and the counter together create a barrier all the way to the floor.
- The distance above the barrier, however, will not provide 6-foot separation unless both individuals are shorter than average. If both individuals are 5-feet-6-inches, for example, the separation would be 1-foot-6-inches plus 2-feet-6-inches plus 1-foot-6-inches, totaling only 5-feet-6-inches.
- In addition, the distance to either side of the barrier would have to be calculated based on the possible locations where an individual (particularly where the customer might stand), rather than assuming both individuals would remain exactly at the center of the barrier – particularly as merchandise is passed around the side of the barrier.

Therefore, such a barrier would not be in compliance with the 6-foot distancing requirement.

Example 3: A bank teller works in a window that is 18-inches deep but that has been covered by a transparent barrier that combines with the existing fixtures to create a barrier that is 12-feet wide, with one teller stationed immediately adjacent to the wall where the barrier begins and the other teller stationed 8-feet away. The barrier extends from the 3-foot counter to 9-feet above the floor, but does not reach the 20-foot high ceiling. Transactions are passed under the barrier through a depression that can only be opened on one side or the other at any given time. Although the individuals may be even closer than 24-inches from one another, the “droplet buffer” distance is considerable:

- for the teller seated or standing 8-feet from the wall, the distance over the barrier is at least 4-feet plus 1-foot-6-inches plus 4-feet for a total of 9-feet-6-inches (assuming both the teller and the customer are 7-feet tall);
- The distance around the barrier is likewise 4-feet plus 1-foot-6-inches plus 4-feet for a total of 9-feet-6-inches (even allowing for lateral movement toward the edge, the two would remain separated by a “droplet buffer” well over 6-feet).
- There is no continuous air flow through the transaction slot.

Therefore, such a barrier would be in compliance with the 6-foot distancing requirement.

Example 4: The same situation as Example 3, except transactions are handled through an open slot or gap at the bottom edge of the barrier, the 6-foot distancing requirement would frequently not be met:

- The other distances would be unchanged.
- The droplet buffer through the transaction slot would now need to be calculated, using the teller’s height minus 4-feet plus the counter’s depth (1-foot-6-inches) plus the customer’s height minus 4-feet; depending upon the height of the teller

*and the customer, it could reasonably be as little as 3-feet-6-inches, and it would be unlikely to be greater than 5-feet-6-inches.*

*Example 5: The same situation as Example 4. However, a 25-inch wide “side table” has been added on each side of the transaction window to force greater physical separation.*

- *The other distances would remain the same as in Examples 3 and 4.*
- *The distance through the slot would still need to be considered, but the additional 30-inches would allow compliance even with transactions being made through the gap at the bottom of the window.*

(C) Whenever employees are transported in a motor vehicle for work purposes, the center points of the seats of any passengers not part of the same household must be separated by at least 3-feet.

(b) Face coverings. The employer must ensure that everyone in the workplace or other premises subject to the employer’s control wears face coverings whenever the 6-foot distancing requirement described in (2)(a) of this subsection cannot be consistently assured. Such face coverings (intended primarily to protect other individuals from the wearer as a source of potential infection) must be either medical grade masks; cloth face coverings that cover the nose and mouth; or face shields that cover the forehead, extend below the chin, and wrap around the sides of the face.

(A) Face coverings must be worn by employees and other individuals whenever customers, contractors, or other visitors are present and a strict separation cannot be maintained through barriers that physically prevent individuals from approaching within 6-feet of one another.

(B) Face coverings must be worn by employees when the work requires them to be within 6-feet of one or more individuals for more than 5 minutes either in a singular instance or in all cases when work requires such contact if they will total more than 30 minutes in the course of a single working day.

(C) Face coverings must be worn by employees working in office settings when not at their desk or seated in a conference room in addition to whenever 6-foot distancing cannot be reliably maintained between individuals (for example, face coverings must be worn in corridors, restrooms, elevators, and stairwells).

(D) Whenever employees are transported in a motor vehicle for work purposes all individuals in the vehicle must wear face coverings, regardless of the distance involved, unless all individuals in the vehicle are members of the same household.

(E) Face coverings must be worn when individuals are engaged in forceful exertion, singing, or shouting and they are not separated from other individuals to their front by at least 12-feet.





(c) Sanitation. All employers **must ensure** that all high-contact surfaces used by multiple employees (door handles, telephones, cash registers, computers, drinking fountains, seatbelts, etc.) are **thoroughly cleaned at the beginning of each shift.**

(A) All shared equipment and high-touch surfaces must be cleaned before use by another employee.

(B) The employer must ensure that employees have the supplies necessary and are able to use proper hand hygiene before and after using shared equipment or tools and before eating, drinking, applying cosmetics, or smoking.



(d) **Social distancing officer.** All employers with at least **25 employees at any time must designate one or more** employees who will be responsible to assist the employer in identifying appropriate social distancing, proper face covering use, and sanitation measures and ensure such policies and procedures are implemented. The social distancing officer must have the authority to take prompt corrective action or to implement measures to eliminate or otherwise minimize exposure to COVID-19. Employers with **fewer than 25 employees may** choose to appoint such a social distancing officer to assist the employer in complying with the requirements of this rule.

(e) Building operators. Those employers who operate or otherwise control buildings where the employees of other employers work must ensure that the building layout allows appropriate social distancing and must ensure that the basic requirements of this rule are posted (and enforced to the degree the building operator is reasonably able to do so) in any common areas, including but not limited to shared entrances, waiting rooms, corridors, restrooms, and elevators.



(f) Employee information and training.

(A) 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.

(B) Employers must notify their employees about the social distancing requirements and how they will be implemented in the workplace, and employers must provide an opportunity for employee feedback about those practices (through the Social Distancing Officer and through either the Safety Committee, an interactive safety meeting, or both). Such notification must be conducted in a manner and language understood by the affected workers.

(C) An explanation of the employer’s policies and procedures for employees to report signs or symptoms of COVID-19. Such explanations must be conducted in a manner and language understood by the affected workers.

(D) Employers must provide information to their employees about any paid leave to which employees would be entitled by company policy as well as under the federal [Families First Coronavirus Relief Act](#) (FFCRA). They also

must inform employees of the protections provided by in accordance with (2)(e) of this subsection.

(g) Medical Removal.

- (A) Whenever a medical provider or public health official recommends isolation or quarantine, whether as a result of contact tracing or otherwise, 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 isolation no longer exists, based on guidance from the employee's medical provider or from the involved public health officials.
- (B) To the degree reassignment to other duties is not possible, the employer must allow workers to use leave to which they are entitled under the FFCRA. If the employer is not covered by the FFCRA or has previously opted out of the paid sick leave provisions of the FFCRA, then the employer must provide up to two weeks of paid reassignment leave in addition to whatever benefits to which the worker would otherwise be entitled (such leave will be provided at 40 hours per week for full-time employees and on a pro-rata basis for part-time employees).

*Exception 1: Employers who would otherwise be required to provide paid leave may count any benefits currently available that were not available prior to March 1, 2020 toward the paid reassignment leave requirement.*

*Exception 2: Employers who would otherwise be required to provide paid reassignment leave who experienced a reduction of more than 20 percent (20%) in gross revenue between the 2<sup>nd</sup> (second) calendar quarter of 2019 and the 2<sup>nd</sup> (second) calendar quarter of 2020.*

*Note: Employers covered by the FFCRA and who now opt to comply with its provisions, whether or not they previously opted out of the leave provisions, are not required by this provision to provide more leave or at a higher rate than required under the federal law.*

- (C) Whenever an employee participates in such reassignment of duties, whether as a result of the requirements of this subsection or because the employer chooses to take additional precautions, the employee shall be entitled to return to previous job duties without any adverse action as a result of the medical removal.
- (D) Decisions regarding testing and return to work must be made in accordance with the direction of any involved public health official and must be otherwise consistent with guidance from the employee's medical provider.



### **(3) COVID-19 Requirements for Workplaces at Heightened Risk**

Except as otherwise provided by this rule, “workplaces at heightened risk” must meet the following requirements, in addition to those in subsection (2) of this rule.

- (a) Exposure Risk Assessment. Each employer covered by this subsection must conduct a COVID-19 exposure risk assessment, without regard to the use of personal protective equipment or face coverings, that considers the following risk elements:
  - (A) The anticipated or actual working distance between all employees.
  - (B) The anticipated or actual working distance between employees and non-employees.
  - (C) The social distancing, face covering, and sanitation measures that the employer developed, implemented, or provided to minimize worker exposure to COVID-19 in accordance with subsections (2)(a), (2)(b), and (2)(c) of this rule respectively.
  - (D) The frequency, duration, and variety of close-in tactile person-to-person work activities performed by employees.
  - (E) The frequency, duration, and variety of those work tasks or operations listed under the scope of (1)(c) of this rule. **Specifically**, this includes employees who perform or directly assist with:
    - (i) Direct patient care in a healthcare setting;
    - (ii) Aerosol-generating healthcare or postmortem procedures;
    - (iii) Emergency first responder activities;
    - (iv) Handling, packaging, cleaning, processing, or transporting of “contaminated materials” as defined by this rule; or
    - (v) 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.
  - (F) The effectiveness of hazard control measures that the employer developed, implemented, or installed to eliminate or minimize worker exposure to COVID-19.
- (b) Each employer covered by subsection (3)(a) of this rule must document their exposure risk assessment in writing and include the following information:
  - (A) The name(s), job title(s), and contact information of the person(s) who performed the exposure risk assessment;
  - (B) The date the exposure risk assessment was completed;
  - (C) The employee job classifications that were evaluated;
  - (D) The employee job classifications where exposure to COVID-19 is reasonably anticipated to be routine, frequent, or is otherwise expected; and
  - (E) The employee job classifications where exposure to COVID-19 is not reasonably anticipated to be routine, frequent, or otherwise expected.

- (c) Enhanced employee information and training. In addition to the training requirements for all workplaces under subsection (2)(e) of this rule, enhanced employee training must include the following provisions:
  - (A) The training is overseen or conducted by a person knowledgeable in the covered subject matter as it relates to the workers' workplace, service, or job operations;
  - (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 program's subject matter and basic epidemiology as it relates to the workplace, service, or operations.
- (d) Enhanced employee training must include the following elements:
  - (A) An accessible copy of this rule;
  - (B) An explanation of contact, droplet, and airborne modes of transmission of COVID-19, including how workers can recognize hazardous activities that may involve exposure to COVID-19 and how to take precautionary measures to minimize their exposure;
  - (C) An explanation of 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 and which employee job classifications, tasks, or work duties were considered as part of that risk assessment;
  - (E) An explanation of the use and limitations of COVID-19 hazard control measures implemented or installed by the employer;
  - (F) Information on the types, use, storage, removal, handling, and maintenance of face coverings and personal protective equipment (including respirators) provided to employees by the employer; and
  - (G) An explanation of the employer's sanitation policies and procedures. This must include a discussion of an employer's or building operator's policies related to the use of shared equipment or common areas.
- (e) Enhanced sanitation. In addition to those sanitation measures required in all workplaces under subsection (2)(c) of this rule, each employer covered by this subsection must develop and implement an appropriate schedule for routine cleaning and decontamination of contaminated materials between each customer and between each employee shift change.

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

Except as otherwise provided by this rule, "workplaces at exceptional risk" must meet the following requirements, in addition to those in Subsections (2) and (3) of this rule.



- (a) Infection Control Plan. Each employer covered by this subsection 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.
- (b) The infection control plan 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 face covering requirements to be implemented in the facility, service, or operation, and the method of informing individuals entering the work setting what 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 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)(c) of this rule.
- (c) The employer must ensure that a copy of the infection control plan is accessible to employees in accordance with 29 CFR 1910.1020(e).
- (d) 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.

## **(5) Definitions**

***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.

***Cloth face covering*** – means any commercially produced or homemade garment, scarf, gator, bandana, or item made from textile or fabric that covers the nose and mouth of the wearer.

***Common areas*** – means building lobbies, reception areas, waiting rooms, bathrooms, break rooms, dining halls, locker rooms, bathing areas, transit lounges, or other locations inside a building or outdoors that multiple individuals may use or where they may congregate.

***Contaminated material*** – means an item (for example, biomedical waste, laundry, instruments, equipment) or surface (for example, countertop, bed frame, patient examination table, laboratory bench) that is reasonably anticipated to be contaminated with SARS-CoV-2 or COVID-19 disease-related hazards. This term does not apply to face coverings used as a method of source control.

***Decontamination*** – means the use of physical or chemical means to remove, inactivate, irradiate, neutralize, or destroy SARS-CoV-2 on contaminated material to the point where it is no longer capable of transmitting SARS-CoV-2 and the surface or item is rendered safe for handling, use, or disposal without the need for personal protective equipment

***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.

***Droplet buffer*** – means a distance of at least 6-feet between the mouth of an employee and another individual around an impermeable (nonporous) barrier that can block respiratory droplets produced by either individual.

***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.



**Face covering** – means a cloth face covering, face shield, respirator, or facemask that covers the nose and the mouth of the wearer and that can be used to reduce the risk that the wearer will transmit COVID-19. **Face coverings with an exhalation valve do not meet this requirement.**

**Facemask** – means a U.S. Food and Drug Administration (FDA) cleared surgical, medical procedure, dental, or isolation mask (commonly referred to as a “surgical mask”). Facemasks 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.

**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 face covering.

**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).

**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.

**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).

**Shared equipment** – means devices or tools that are used by multiple employees or non-employees including, but not limited to, elevators, escalators, keyboards, computer, company vehicles.

**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.