



**Oregon**

Tina Kotek, Governor



Department of Consumer  
and Business Services

June 29, 2023

[Text of proposed changes](#)

## Proposed Repeal of Rules Addressing the COVID-19 Public Health Emergency and Work Clothing Changes

---

### *Virtual Public Hearing Scheduled for:*

<u>Date</u>	<u>Time</u>
July 25, 2023	10:00 am

Please register for Proposed Repeal of Rules Addressing the COVID-19 Public Health Emergency and Work Clothing Changes on Tuesday, Jul 25, 2023 10:00 AM Pacific Time (US and Canada) at:

[https://www.zoomgov.com/webinar/register/WN\\_0qG\\_P0f8RuKt5fSveGkJHg](https://www.zoomgov.com/webinar/register/WN_0qG_P0f8RuKt5fSveGkJHg)

After registering for a webinar, you will receive a confirmation email containing information about joining the webinar. In order to ensure as many people as possible are able to testify, Oregon OSHA reserves the right to restrict testimony to no more than 5 minutes.

---

### *Rule Summary:*

Oregon OSHA proposes to permanently repeal all COVID-19 rules. These rules are already temporarily suspended through Administrative Order 1-2023 in alignment with Oregon Health Authority's public health order rescinding health care setting masking requirements effective April 3, 2023.

The proposed repeals include OAR 437-001-0744: Rule Addressing COVID-19 Workplace Risks and 437-004-1115: COVID-19 Workplace Requirements for Employer-Provided Labor Housing.

While Oregon OSHA proposes to permanently repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In

response, the agency is retaining the ability for an employee to wear a facial covering, if they so choose, by amending the following rules:

- OAR 437-002-0134 Personal Protective Equipment in Division 2,
- OAR 437-003-0134 Personal Protective Equipment in Division 3, and
- OAR 437-004-1030 Work Clothing in Division 4.

Employers are no longer responsible for providing facial coverings to their employees. However, if employers require their use they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

This rulemaking fulfills Oregon OSHA's stated commitment to repeal the COVID-19 rules when it is no longer necessary to address the COVID-19 pandemic.

---

Please visit our website [osha.oregon.gov/rules](https://osha.oregon.gov/rules) to view our proposed rules, or select other rule activity from this page.

**When does this happen:** Adoption of proposed changes will tentatively be in August 2023.

**To get a copy:** Our web site – [osha.oregon.gov](https://osha.oregon.gov) Rules and laws, then, Proposed rules  
Or call 503-947-7449

**To comment:** Department of Consumer and Business Services/  
Oregon OSHA  
PO BOX 14480  
Salem OR 97309-0405  
Email – [OSHA.rulemaking@dcbs.oregon.gov](mailto:OSHA.rulemaking@dcbs.oregon.gov)  
Fax – 503-947-7461

**Comment period closes: August 4, 2023 at 5:00 PM**

**Oregon OSHA contact:** **Matt Kaiser, Salem Central Office @ 503-378-3272, or email at [Matthew.C.KAISER@dcbs.oregon.gov](mailto:Matthew.C.KAISER@dcbs.oregon.gov).**

Note: In compliance with the Americans with Disabilities Act (ADA), this publication is available in alternative formats by calling 503-378-3272.



Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

**Department of Consumer and Business Services/Oregon OSHA**

Agency and Division

**OAR 437**

Administrative Rules Chapter Number

**Lisa Appel**

Rules Coordinator

**350 Winter Street NE Salem OR 97301-3882**

Address

**503-947-7449**

Telephone

**RULE CAPTION**

**Proposed Repeal of Rules Addressing the COVID-19 Public Health Emergency and Work Clothing Changes**

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

**Virtual Public Hearings Scheduled for:**

Hearing Date	Time	Location	Hearings Officer
<b>July 25, 2023</b>	<b>10:00 am</b>	Oregon OSHA, Salem	Lisa Appel

Please register for Proposed Repeal of Rules Addressing the COVID-19 Public Health Emergency and Work Clothing Changes on Tuesday, Jul 25, 2023 10:00 AM Pacific Time (US and Canada) at:  
[https://www.zoomgov.com/webinar/register/WN\\_0qG\\_P0f8RuKt5fSveGkJHg](https://www.zoomgov.com/webinar/register/WN_0qG_P0f8RuKt5fSveGkJHg)

After registering, you will receive a confirmation email containing information about joining the webinar.

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**REPEAL: OAR 437-001-0744 and 437-004-1115**

**AMEND: OAR 437-002-0134, 437-003-0134 and 437-004-1030**

**ORS 654.025(2), 654.035, 656.726(4)**

Stat. Auth.

**654.025(3)(a)**

Other Authority

**ORS 654.001 through 654.295**

Stats. Implemented

# RULEMAKING SUMMARY

## INDIVIDUAL RULE SUMMARY (By rule number)

Provide a brief summary of the rule (if new adoption), or a brief summary of changes made to the rule (if amending)

**OAR 437-001-0744** – Oregon OSHA proposes to permanently repeal the Rule Addressing COVID-19 Workplace Risks. This rule is already temporarily suspended through Administrative Order 1-2023 and aligns with the Oregon Health Authority’s public health order that rescinded healthcare setting masking requirement effective April 3, 2023. This rulemaking fulfills Oregon OSHA’s stated commitment to repeal its rule when it is no longer necessary to address the COVID-19 pandemic.

**OAR 437-004-1115** – Oregon OSHA proposes to permanently repeal the COVID-19 Workplace Requirements for Employer-Provided Labor Housing rule. This rule is already temporarily suspended through Administrative Order 1-2023 and aligns with the Oregon Health Authority’s public health order that rescinded healthcare setting masking requirement effective April 3, 2023. This rulemaking fulfills Oregon OSHA’s stated commitment to repeal its rule when it is no longer necessary to address the COVID-19 pandemic.

**OAR 437-002-0134 Personal Protective Equipment in Division 2** – While Oregon OSHA proposes to repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In response, the agency proposes retaining the ability for an employee to wear a facial covering, if they so choose in the Division 2 Personal Protective Equipment rule. Employers would no longer be responsible for providing facial coverings to their employees. However, if employers require their use, they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.




**OAR 437-003-0134 Personal Protective Equipment in Division 3** – While Oregon OSHA proposes to repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In response, the agency proposes retaining the ability for an employee to wear a facial covering, if they so choose in the Division 3 Personal Protective Equipment rule. Employers would no longer be responsible for providing facial coverings to their employees. However, if employers require their use, they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

**OAR 437-004-1030 Work Clothing in Division 4** – While Oregon OSHA proposes to repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In response, the agency proposes retaining the ability for an employee to wear a facial covering, if they so choose in the Division 4 Work Clothing rule. Employers would no longer be responsible for providing facial coverings to their employees. However, if employers require their use, they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

**August 4, 2023, 5:00 PM**

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

  
Signature  
  
Printed name  
  
Date

\*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.  
ARC 920-2005

## STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/Oregon OSHA  
Agency and Division

OAR 437  
Administrative Rules Chapter Number

### In the Matter of:

### Adopting:

**Amending: OAR 437-002-0134, 437-003-0134 and 437-004-1030**

**Repealing: OAR 437-001-0744 and 437-004-1115**

**Rule Caption:** Proposed Repeal of Rules Addressing the COVID-19 Public Health Emergency and Work Clothing Changes.

**Statutory Authority:** ORS 654.025(2), 654.025(3)(a), 654.035, 656.726(4)

**Stats. Implemented:** ORS 654.001 through 654.295

### Need for the Rule(s):

These proposed changes are in alignment with the Oregon Health Authority's (OHA) public health order rescinding health care setting masking requirements effective April 3, 2023. The decision by OHA to end statewide healthcare mask requirements aligns with decisions in other states, including Washington and California. The federal government officially ended the COVID-19 public health emergency on May 11, 2023.

Oregon OSHA needs to align its rules with these recent policy changes. As a result, Oregon OSHA proposes to permanently repeal OAR 437-001-0744 (Rule Addressing COVID-19 Workplace Risks) and OAR 437-004-1115 (COVID-19 Workplace Requirements for Employer-Provided Labor Housing).

Some workers may still want to wear a facial covering due to the ongoing risks from COVID-19. Oregon OSHA proposes to amend Division 2, 3, and 4 work clothing rules (OAR 437-002-0134, 437-003-0134, and 437-004-1030) to provide employees the right to do so if they so choose.

### Documents Relied Upon, and where they are available:

Oregon Health Authority News Release - Hospitalizations, positive tests for respiratory viruses keep dropping:  
<https://content.govdelivery.com/accounts/ORDHS/bulletins/34dc1c6>

Oregon Health Authority News Release - Oregon will lift mask requirement for health care settings April 3:  
<https://content.govdelivery.com/accounts/ORDHS/bulletins/34c69c1>

Oregon Health Authority Public Health Order rescinding health care setting masking requirements:  
<https://www.oregon.gov/oha/PH/RULESREGULATIONS/Documents/le-196189.pdf>

Oregon Health Authority News Release - State lifts COVID-19 response measures as federal emergency ends:  
<https://content.govdelivery.com/accounts/ORDHS/bulletins/359be90>

Oregon Health Authority News Release - COVID-19 outlook good as cases, deaths, hospitalizations continue declines:  
<https://content.govdelivery.com/accounts/ORDHS/bulletins/35655a1>

Oregon OSHA - Suspended Rules Addressing the COVID-19 Public Health Emergency and Amended Work Clothing Rules:  
<https://osha.oregon.gov/OSHARules/adopted/2023/ao1-2023-letter-temp-cov19-suspension.pdf>

Washington State Department of Health – Masking requirements in healthcare, long-term care, and correctional facilities to end April 3:

<https://doh.wa.gov/newsroom/masking-requirements-healthcare-long-term-care-and-correctional-facilities-end-april-3>

California Department of Public Health - State Public Health Officer Order of March 3, 2023:

<https://www.cdph.ca.gov/Programs/CID/DCDC/pages/covid-19/order-of-the-state-public-health-officer-health-care-worker-vaccine-requirement.aspx#:~:text=Thus%20CDPH%20is%20updating%20its,days%20from%20date%20of%20infection.>

Executive Office of the President - Statement of Administration Policy on Federal COVID-19 policy:

<https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf>

Fact Sheet: COVID-19 Public Health Emergency Transition Roadmap:

<https://www.hhs.gov/about/news/2023/02/09/fact-sheet-covid-19-public-health-emergency-transition-roadmap.html>

Oregon Employment Department - A Snapshot of Oregon Firms by Size Class, 2022:

<https://www.qualityinfo.org/-/a-snapshot-of-oregon-firms-by-size-class-2022>

## **Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in This State:**

The proposed rule changes are not expected to impact racial equity in the workplace for underrepresented communities, as the proposed rule changes apply to all workers covered under the Oregon Safe Employment Act (OSEAct).

## **Fiscal and Economic Impact:**

### **Statement of Cost of Compliance:**

#### **1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

All state agencies and local government units are affected by the rules in the sense that they are employers under the Oregon Safe Employment Act (OSEAct). The public as a whole will be affected only to the degree that members of the public are employers and employees.

The agency does not anticipate an increase in compliance costs for employers from the proposed changes.

#### **2. Cost of compliance effect on small business (ORS 183.336):**

##### **a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:**

According to the Oregon Employment Department, "A Snapshot of Oregon Firms by Size Class, 2022," December 8, 2022, there were 112,700 firms with fewer than 50 employees in Oregon in March 2022. These firms accounted for 96 percent of all firms statewide.

##### **b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

The proposed rulemaking does not induce changes to Oregon OSHA general recordkeeping or other administrative activities.

##### **c. Equipment, supplies, labor and increased administration required for compliance:**

The projected equipment, supplies, labor and increased administration for the cost of compliance will be reduced as a result of this rulemaking.

## **How were small businesses involved in the development of this rule?**

Small businesses and others were involved in the development of this rule insofar as their representatives were represented on the Infectious Disease Rules Advisory Committee, the Oregon OSHA Construction Advisory Committee, and other Oregon OSHA stakeholder groups.

## **Administrative Rule Advisory Committee consulted?**

Yes, Oregon OSHA has continued engagement with two Rulemaking Advisory Committees (RAC), for General Risk and Exceptional Risk workplaces. In the COVID-19 rule, Oregon OSHA committed to regular discussions with the Oregon OSHA Partnership Committee, the Oregon Health Authority, the two Infectious Disease Rulemaking Advisory Committees, and other stakeholders to determine when all or additional parts of the rule can be appropriately repealed. In accordance, RACs have met throughout the pandemic, and Oregon OSHA consulted them for feedback in a RAC meeting on June 22, 2023, prior to proposing these amendments. The RAC has received communications through the temporary rule suspension and initiation of the permanent repeal process. Comments were accepted during meetings and through emails.

**The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.**



Renee Stapleton

6/29/23

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007





## HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING  
A \*TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.  
(ORS 183.534)  
**FOR ADMINISTRATIVE RULES**

**AGENCY NAME:** DCBS/Oregon OSHA  
(virtual)

**PERMANENT:** XX

**HEARING DATE:** July 25, 2023

**ADDRESS:** 350 Winter Street NE

**CITY/STATE:** Salem OR 97301-3882

**TEMPORARY:**

**EFFECTIVE DATE:**

**PHONE:** 503-947-7449

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.

IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

**Description of proposed change:** (Please attach any draft or permanent rule or ordinance)

See attached Statement of Need and Justification and Notice of Proposed Rulemaking.

**Description of the need for, and objectives of the rule:**

See attached Statement of Need and Justification and Notice of Proposed Rulemaking.

**List of rules adopted or amended:**

REPEAL: OAR 437-001-0744 and 437-004-1115  
AMEND: OAR 437-002-0134, 437-003-0134 and 437-004-1030

**Materials and labor costs increase or savings:**  
None.

**Estimated administrative construction or other costs increase or savings:**  
None.

**Land costs increase or savings:**  
Oregon OSHA does not foresee any effect on land costs.

**Other costs increase or savings:**  
Oregon OSHA does not foresee any additional costs.

\*Typical-Single story 3 bedrooms, 1 1/2 bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

---

**PREPARERS NAME:** Lisa Appel  
**EMAIL ADDRESS:** Lisa.Appel@dcbs.oregon.gov





**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 437  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION

**FILED**

06/29/2023 9:40 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Proposed Repeal of Rules Addressing the COVID-19 Public Health Emergency and Work Clothing Changes

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/04/2023 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Lisa Appel  
503-947-7449  
OSHA.rulemaking@dcbs.oregon.gov

350 Winter St. NE  
Salem, OR 97301

Filed By:  
Lisa Appel  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 07/25/2023

TIME: 10:00 AM

OFFICER: Lisa Appel

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1606312802

SPECIAL INSTRUCTIONS:

Go to the link to register for the webinar hearing. After registering, you will receive a confirmation email containing information about joining the webinar.

NEED FOR THE RULE(S)

These proposed changes are in alignment with the Oregon Health Authority's (OHA) public health order rescinding health care setting masking requirements effective April 3, 2023. The decision by OHA to end statewide healthcare mask requirements aligns with decisions in other states, including Washington and California. The federal government officially ended the COVID-19 public health emergency on May 11, 2023.

Oregon OSHA needs to align its rules with these recent policy changes. As a result, Oregon OSHA proposes to permanently repeal OAR 437-001-0744 (Rule Addressing COVID-19 Workplace Risks) and OAR 437-004-1115 (COVID-19 Workplace Requirements for Employer-Provided Labor Housing).

Some workers may still want to wear a facial covering due to the ongoing risks from COVID-19. Oregon OSHA proposes to amend Division 2, 3, and 4 work clothing rules (OAR 437-002-0134, 437-003-0134, and 437-004-1030) to provide

employees the right to do so if they so choose.

---

#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Health Authority News Release - Hospitalizations, positive tests for respiratory viruses keep dropping:

<https://content.govdelivery.com/accounts/ORDHS/bulletins/34dc1c6>

Oregon Health Authority News Release - Oregon will lift mask requirement for health care settings April 3:

<https://content.govdelivery.com/accounts/ORDHS/bulletins/34c69c1>

Oregon Health Authority Public Health Order rescinding health care setting masking requirements:

<https://www.oregon.gov/oha/PH/RULESREGULATIONS/Documents/le-196189.pdf>

Oregon Health Authority News Release - State lifts COVID-19 response measures as federal emergency ends:

<https://content.govdelivery.com/accounts/ORDHS/bulletins/359be90>

Oregon Health Authority News Release - COVID-19 outlook good as cases, deaths, hospitalizations continue declines:

<https://content.govdelivery.com/accounts/ORDHS/bulletins/35655a1>

Oregon OSHA - Suspended Rules Addressing the COVID-19 Public Health Emergency and Amended Work Clothing Rules:

<https://osha.oregon.gov/OSHARules/adopted/2023/ao1-2023-letter-temp-cov19-suspension.pdf>

Washington State Department of Health – Masking requirements in healthcare, long-term care, and correctional facilities to end April 3:

<https://doh.wa.gov/newsroom/masking-requirements-healthcare-long-term-care-and-correctional-facilities-end-april-3>

California Department of Public Health - State Public Health Officer Order of March 3, 2023:

<https://www.cdph.ca.gov/Programs/CID/DCDC/pages/covid-19/order-of-the-state-public-health-officer-health-care-worker-vaccine-requirement.aspx#:~:text=Thus%20CDPH%20is%20updating%20its,days%20from%20date%20of%20infection.>

Executive Office of the President - Statement of Administration Policy on Federal COVID-19 policy:

<https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf>

Fact Sheet: COVID-19 Public Health Emergency Transition Roadmap:

<https://www.hhs.gov/about/news/2023/02/09/fact-sheet-covid-19-public-health-emergency-transition-roadmap.html>

Oregon Employment Department - A Snapshot of Oregon Firms by Size Class, 2022:

<https://www.qualityinfo.org/-/a-snapshot-of-oregon-firms-by-size-class-2022>

---

#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The proposed rule changes are not expected to impact racial equity in the workplace for underrepresented communities, as the proposed rule changes apply to all workers covered under the Oregon Safe Employment Act (OSEAct).

---

FISCAL AND ECONOMIC IMPACT:

See the assessment of impact under the Cost of Compliance.

---

COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

All state agencies and local government units are affected by the rules in the sense that they are employers under the Oregon Safe Employment Act (OSEAct). The public as a whole will be affected only to the degree that members of the public are employers and employees.

The agency does not anticipate an increase in compliance costs for employers from the proposed changes.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

According to the Oregon Employment Department, "A Snapshot of Oregon Firms by Size Class, 2022," December 8, 2022, there were 112,700 firms with fewer than 50 employees in Oregon in March 2022. These firms accounted for 96 percent of all firms statewide.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rulemaking does not induce changes to Oregon OSHA general recordkeeping or other administrative activities.

c. Equipment, supplies, labor and increased administration required for compliance:

The projected equipment, supplies, labor and increased administration for the cost of compliance will be reduced as a result of this rulemaking.

---

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses and others were involved in the development of this rule insofar as their representatives were represented on the Infectious Disease Rules Advisory Committee, the Oregon OSHA Construction Advisory Committee, and other Oregon OSHA stakeholder groups.

---

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

---

HOUSING IMPACT STATEMENT:

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING A \*TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND. (ORS 183.534) FOR ADMINISTRATIVE RULES

Description of proposed change: (Please attach any draft or permanent rule or ordinance)  
See attached Statement of Need and Justification and Certificate and Notice of Proposed Rulemaking.

Description of the need for, and objectives of the rule:  
See attached Statement of Need and Justification and Notice of Proposed Rulemaking.

List of rules adopted or amended:

REPEAL: OAR 437-001-0744 and 437-004-1115  
AMEND: OAR 437-002-0134, 437-003-0134 and 437-004-1030

Materials and labor costs increase or savings:  
None.

Estimated administrative construction or other costs increase or savings:  
None.

Land costs increase or savings:  
Oregon OSHA does not foresee any effect on land costs.

Other costs increase or savings:  
Oregon OSHA does not foresee any additional costs.

\*Typical-Single story 3 bedrooms, 1 1/2 bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

---

RULES PROPOSED:  
437-001-0744, 437-002-0134, 437-003-0134, 437-004-1030, 437-004-1115

REPEAL: 437-001-0744

RULE SUMMARY: OAR 437-001-0744 – Oregon OSHA proposes to permanently repeal the Rule Addressing COVID-19 Workplace Risks. This rule is already temporarily suspended through Administrative Order 1-2023 and aligns with the Oregon Health Authority's public health order that rescinded healthcare setting masking requirement effective April 3, 2023. This rulemaking fulfills Oregon OSHA's stated commitment to repeal its rule when it is no longer necessary to address the COVID-19 pandemic.

CHANGES TO RULE:

~~437-001-0744~~  
~~Rule Addressing COVID-19 Workplace Risks~~

Note: Oregon OSHA's temporary rule addressing COVID-19 in the workplace expired May 4, 2021, 180 days after its adoption. Under the Oregon Administrative Procedures Act, a temporary rule cannot be renewed or extended beyond 180 days. Therefore, in order to extend protections for workers against COVID-19, which remains a significant concern, Oregon OSHA initially adopted this rule following the normal process for permanent rulemaking.¶

However, the purpose of this rule is to address the COVID-19 pandemic in Oregon workplaces. Oregon OSHA will repeal the rule when it is no longer necessary to address the pandemic. Because it is not possible to assign a specific time for that decision, Oregon OSHA will continue to consult with the Oregon OSHA Partnership Committee, the Oregon Health Authority, the two Infectious Disease Rulemaking Advisory Committees, and other stakeholders as circumstances change to determine when all or part of the rule can be appropriately repealed. Oregon OSHA and its stakeholders will consider indicators and other information such as (but not limited to) Executive Orders issued by the Governor, guidance issued by the Oregon Health Authority and the Centers for Disease Control, infection rates (including the rate of spread of COVID-19 variants), test positivity rates, and vaccination rates, as well as indicators of severity such as hospitalizations and fatalities.¶

In accordance with its commitment to repeal the rule when it is no longer necessary, on March 18, 2022, Oregon OSHA amended this rule to remove the indoor masking requirements and most of the other provisions no longer appropriate for that stage of the pandemic. The changes were in response to Governor Brown's announcement of updated health guidance on February 28, 2022, and direction from the Oregon Health Authority. In order for these changes to take immediate effect, they were effectuated via a temporary rule. As stated above, a temporary rule cannot be renewed or extended beyond 180 days. Therefore, in order to preserve the changes made on March 18, 2022, and to remove some additional requirements as advised by the Oregon Health Authority, Oregon OSHA is adopting this rule following the normal process for permanent rulemaking. Failure to adopt this rule would result in the rule reverting to its form as of December 21, 2021 (Administrative Order 14-2021). ¶

#### (1) Scope and Application.¶

(a) This rule applies to all employees working in places of employment subject to Oregon OSHA's jurisdiction and exposed to one or more other individuals outside their household. 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) The requirements of sections (3) and (4) of this rule are applicable to exceptional risk workplaces. For purposes of this rule, workplaces at exceptional risk include any setting (whether a healthcare setting or not) where an employee (including temporary and part-time employees) performs one or any combination of the following job duties:¶

(A) Direct patient care; ¶

(B) Environmental decontamination services in a healthcare setting; ¶

(C) Aerosol-generating healthcare or postmortem procedures; ¶

(D) Direct client service in residential care or assisted living facilities; ¶

(E) Emergency first responder activities; ¶

(F) Personal care activities that involve very close contact with an individual, such as toileting or bathing; or ¶

(G) Handling, packaging, cleaning, processing, or transporting human remains or human tissue specimens or laboratory cultures collected from an individual known or suspected to be infected with COVID-19.¶

Note: "Contact tracing" requirements as described in subsections (3)(l) and (4)(i) of this rule are not applicable for law enforcement covered in the emergency first responder definition of subsection (2)(e), personal care activities in (1)(b)(F), and handling, packaging, cleaning, processing, or transporting human remains or human tissue specimens or laboratory cultures in (1)(b)(G).¶

Note: "Exceptional risk" does not include workers of other departments or job duties outside the scope and underlying definitions of subsection (1)(b) of this rule. For example, employees in the accounting department at a hospital would be covered by the requirements applicable to all workplaces, while other workers at the same hospital who actually perform any of those job operations listed under subsection (1)(b), such as direct patient care, would be subject to the supplementary requirements for workplaces at exceptional risk in addition to the requirements for all workplaces.¶

Note: It is important to recognize other regulatory bodies may have additional requirements relating to exceptional risk beyond Oregon OSHA requirements. ¶

(c) The requirements of section (5) of this rule are applicable to all workplaces not otherwise covered under the exceptional risk workplace requirements of sections (3) and (4).¶

#### (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, 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.¶¶

(c) Decontamination of filtering facepiece respirators (FFR) – means a process approved by the U.S. Food and Drug Administration (FDA) that reduces the number of pathogens, does not negatively affect the fit or filtration performance of the FFR, and presents no residual chemical hazard.¶¶

(d) Direct patient care – means any employee job duties that include direct physical contact with a patient during the delivery of healthcare services. A worker performs direct patient care under the authority granted by a license or certification issued by federal, state, or local entities to provide healthcare services within the scope of practice. Workers 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, nurse practitioners, certified nursing aides, medical technologists, phlebotomists, respiratory therapists, dentists, dental hygienists, physical or occupational therapists, chiropractors, and other workers who otherwise provide in-person healthcare services. Direct patient care does not include customer service activities provided in retail settings that have embedded healthcare offices, such as retail pharmacies.¶¶

(e) 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, or natural disaster. First responders include but are not limited to law enforcement officers, firefighters, emergency medical technicians, and paramedics. Emergency first responder activities under this rule do not include tasks where only first aid is provided in accordance with OAR 437-002-0161.¶¶

(f) 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.¶¶

(g) 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 437-001-0015.¶¶

(h) Employment, Place of – has the meaning provided in OAR 437-001-0015 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.¶¶

Note: The employment of home care and home healthcare workers by a resident of the home in which they work is not subject to workers' compensation (even though the employees receive such coverage through the Home Care Commission) and therefore their employment is not covered by Oregon OSHA. Such workers who are employed by private home health or in-home care agencies are subject to workers' compensation and therefore their employment is covered by Oregon OSHA. Private homes, such as adult foster care homes, where the only employment is for the care and comfort of the residents are also not required to obtain workers' compensation and are therefore not subject to Oregon OSHA unless the employer has opted to provide workers' compensation coverage under ORS 656.039.¶¶

(i) 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.¶¶

(j) 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 because they allow droplets to be released from the covering.¶¶

(k) 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 and their use as a means of "source control" should be discouraged when more suitable alternatives are available, but they remain a compliant (although not preferred) means of "source control" in relation to COVID-19.¶¶

(l) 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.¶¶

(m) Filtering facepiece respirator—means a tight-fitting, negative pressure, particulate respirator, where the particulate 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 N95 respirators.¶¶

(n) 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.¶¶

(o) Healthcare setting—means any space at the workplace where a worker routinely provides direct patient care as defined by this rule or performs aerosol-generating healthcare or postmortem procedures. A healthcare setting does not include any establishment where only personal support services are provided or places where direct patient care is provided to a patient outside the healthcare setting itself.¶¶

(p) 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, tabletops, credit card terminals, doorknobs, door handles, digital kiosks, touch-screen enabled devices, light switches, handrails, elevator control panels, and steering wheels in work vehicles.¶¶

(q) Individual—means any person who is present in the place of employment, whether an employee or not.¶¶

(r) 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.¶¶

(s) 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.¶¶

(t) Personal support services—means the work performed by a caretaker or similar employee who is responsible for assisting individuals with day-to-day living issues that are not direct patient care activities. Personal support services include, but are not limited to housekeeping, assisting with medication, personal transportation (such as taking a client to an appointment), and other day-to-day living activities that may occur in an individual's private residence are not otherwise considered to be direct patient care under this rule.¶¶

(u) 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.¶¶

(v) SARS-CoV-2—refers to a specific betacoronavirus (MERS-CoV and SARS-CoV are other betacoronaviruses) that causes what has been designated as Coronavirus Disease 2019 (COVID-19).¶¶

(w) Shared equipment—means devices or tools that are used by multiple employees or other individuals including, but not limited to, elevators, computers, phones, gym or personal fitness devices, escalators, and work vehicles.¶¶

(x) 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.¶¶

(y) Suspected to be infected with COVID-19—means a person who has signs or symptoms of COVID-19 but has not tested positive for SARS-CoV-2 infection and no alternative diagnosis has been made consistent with Oregon Health Authority definitions.¶¶

(3) COVID-19 Requirements for Exceptional Risk Workplaces. Except as otherwise provided by this rule, the following requirements in section (3) apply to exceptional risk workplaces.¶¶

(a) Physical distancing. Oregon OSHA no longer requires employers to implement physical distancing.¶¶

(b) Masks, face coverings, or face shields. The specific requirements for masks, face coverings, and face shields are covered under subsection (4)(l) of this rule.¶¶

(c) Cleaning and sanitation. Except for healthcare settings, which are covered under subsection (4)(d) of this rule, Oregon OSHA no longer requires employers to regularly clean or sanitize all common areas, shared equipment, and high-touch surfaces as defined by this rule that are under its control and that are used by employees or the public.¶¶

(A) Employers must provide employees with the supplies (such as soap and water) and the reasonable time necessary to clean or sanitize more frequently than would otherwise be required if the worker chooses to do so.¶¶

(B) Employers must provide employees with the supplies (such as soap and water) and reasonable time necessary

to perform hand hygiene before using shared equipment.¶¶

Note: Additional sanitation requirements for exceptional risk workplaces are included in subsection (4)(d) of this rule.¶¶

(d) Posting requirements. Oregon OSHA no longer requires the COVID-19 poster to be posted in the workplace.¶¶

(e) Building operators. Oregon OSHA no longer requires building operators to take the additional steps related to sanitation and posting of signs.¶¶

(f) Routine ventilation maintenance and evaluation. Employers covered by section (3) of this rule must optimize the amount of outside air circulated through its existing heating, ventilation, and air conditioning (HVAC) system(s), to the extent the system(s) can do so when operating as designed and maintaining healthy indoor temperatures, whenever there are employees in the workplace and the outdoor air quality index remains at either "good" or "moderate" levels.¶¶

Note: This does not require installation of new ventilation equipment.¶¶

Note: While not required, ventilation systems that are installed and maintained in accordance with the provisions of the American National Standards (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards 62.1 and 62.2 (ASHRAE 2019a, 2019b) meet this requirement.¶¶

(A) All employers covered by section (3) of this rule with more than ten employees statewide and an existing HVAC system must certify in writing that they are operating that system in accordance with the rule, to the best of their knowledge. Although not required, such certifications can be made using the sample format provided by Oregon OSHA.¶¶

(i) The certification must be dated and must include the name of the individual making the certification; and¶¶

(ii) Such certification records must be maintained as long as this rule is in effect.¶¶

(B) On a quarterly basis, all employers must ensure the following:¶¶

(i) All air filters are maintained and replaced as necessary to ensure the proper function of the ventilation system; and¶¶

(ii) All intake ports that provide outside 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) Exposure risk assessment. All employers covered by section (3) of this rule must conduct a COVID-19 exposure risk assessment, without regard to the use of personal protective equipment, masks, face coverings, or face shields. A risk assessment conducted in compliance with the Oregon OSHA temporary COVID-19 rule adopted November 6, 2020, satisfies this requirement and need not be repeated. If an employer has multiple facilities that are substantially similar, the assessment 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 assessment.¶¶

(A) The exposure risk assessment must involve participation and feedback from employees. This feedback may be achieved via a safety meeting, safety committee, supervisor, process negotiated with the exclusive bargaining agent (if any), or any other similarly interactive process.¶¶

(B) Each employer with more than ten employees statewide (including temporary and part-time workers) that is covered by subsection (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 in this subsection.¶¶

(C) The risk assessment must address the following questions related to 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 is the anticipated working distance between employees and other individuals? How might those working distances change during non-routine work activities?¶¶

(iv) How have the workplace or employee job duties, or both, been modified to provide at least six feet of physical distancing between all individuals?¶¶

(v) How are employees and other individuals at the workplace notified where and when masks, face coverings, or face shields are required? How is this policy enforced and clearly communicated to employees and other individuals?¶¶

(vi) How have employees been informed about the workplace policy and procedures related to reporting COVID-19 symptoms? How might employees who are identified for quarantine or isolation as a result of medical removal

under this rule be provided with an opportunity to work at home, if such work is available and they are well enough to do so?¶¶

(vii) How have engineering controls such as ventilation (whether portable air filtration units equipped with HEPA filters, airborne infection isolation rooms, local exhaust ventilation, 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 hazard reporting procedures or policies communicated to employees?¶¶

(x) How are sanitation measures related to COVID-19 implemented in the workplace? How have these sanitation practices been explained to employees and other individuals at the workplace?¶¶

(xi) How have the industry-specific or activity-specific COVID-19 requirements in Appendix A of this rule and applicable guidance from the Oregon Health Authority been implemented for workers? How will periodic updates to such Oregon Health Authority guidance documents be incorporated into the workplace on an ongoing basis?¶¶

(xii) In settings where the workers of multiple employers work in the same space or share equipment or common areas, how are the physical distancing, mask, face covering, or face shield requirements; and sanitation measures required under this rule communicated to and coordinated between all employers and their affected employees?¶¶

(xiii) How can the employer implement appropriate controls that provide layered protection from COVID-19 hazards and that minimize, to the degree possible, reliance on individual employee training and behavior for their efficacy?¶¶

Note: Oregon OSHA has made a Risk Assessment template and sample Risk Assessments available to assist employers in completing this task.¶¶

(h) Infection control plan. All employers covered by section (3) of this rule must establish and implement an infection control plan based on the risks identified in subsection (3)(g) of this rule that implements the controls identified in subparagraph (3)(g)(C)(xiii) including, but not limited to, ventilation, staggered shifts, redesigning the workplace to accommodate physical distancing, reducing use of shared surfaces and tools, limiting the number of employees and other individuals in work areas, personal protective equipment, etc. An infection control plan developed in compliance with the Oregon OSHA temporary COVID-19 rule adopted November 6, 2020, satisfies this requirement and need not be repeated. If an employer has multiple facilities that are substantially similar, its infection control 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. Employers may also rely upon materials developed by associations, licensing agencies, and franchisors to assist with compliance and provided that mechanisms for appropriate employee feedback and involvement are provided.¶¶

(A) Each employer with more than ten employees statewide (including temporary and part-time workers) and every employer, regardless of size, that is covered by subsection (1)(b) of this rule (workplaces at exceptional risk) must document their infection control plan in writing and must ensure that a copy is accessible to employees at their workplace.¶¶

Note: Additional requirements related to the infection control plan, which are applicable only to those employers covered by subsection (1)(b) of this rule (workplaces at exceptional risk), are contained in subsection (4)(c) of this rule.¶¶

(B) The infection control plan must contain, at a minimum, the following elements:¶¶

(i) A list of all job assignments or worker tasks requiring the use of personal protective equipment (including respirators) necessary to minimize employee exposure to COVID-19;¶¶

(ii) The procedures the employer will use to ensure that there is an adequate supply of masks, face coverings, or face shields and personal protective equipment (including respirators) necessary to minimize employee exposure to COVID-19;¶¶

(iii) A list and description of the specific hazard control measures that the employer installed, implemented, or developed to minimize employee exposure to COVID-19;¶¶

(iv) A description of the employer's COVID-19 mask, face covering, and face shield requirements at the workplace, and the method of informing individuals entering the workplace where such source control is required;¶¶

(v) 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 known or suspected to be infected with COVID-19 to whom other workers may have been exposed. This includes the communication to individuals identified through COVID-19 contact tracing and general communication to the workplace at large; and¶¶

(vi) The procedures the employer will use to provide its workers with the initial employee information and training required by this rule.¶¶

Note: Oregon OSHA has made sample Infection Control Plans available to assist employers in completing this task.¶¶

(i) Employee information and training. All employers covered by section (3) of this rule must provide workers with

information and training regarding COVID-19. Infection control training conducted in compliance with the Oregon OSHA temporary COVID-19 rule adopted November 6, 2020, satisfies this requirement. This information and training can be provided remotely or using computer-based models but must be provided in a manner and language understood by the affected workers. Employers must ensure that the training provides an opportunity for feedback from employees about the topics covered in the training, which must include at least the following elements:¶¶

(A) Physical distancing requirements as they apply to the employee's workplace and job function(s);¶¶

(B) Mask, face covering, or face shield requirements as they apply to the employee's workplace and job function(s);¶¶

(C) COVID-19 sanitation requirements as they apply to the employee's workplace and job function(s);¶¶

(D) COVID-19 signs and symptom reporting procedures that apply to the employee's workplace; ¶¶

(E) COVID-19 infection notification process as suggested by this rule; ¶¶

(F) Medical removal as required by this rule;¶¶

(G) The characteristics and methods of transmission of the SARS-CoV-2 virus;¶¶

Note: Oregon OSHA has provided training materials that can be used to complete this portion of the training.¶¶

(H) The symptoms of the COVID-19 disease;¶¶

Note: Oregon OSHA has provided training materials that can be used to complete this portion of the training.¶¶

(I) The ability of pre-symptomatic and asymptomatic COVID-19 persons to transmit the SARS-CoV-2 virus; and¶¶

Note: Oregon OSHA has provided training materials that can be used to complete this portion of the training.¶¶

(J) Safe and healthy work practices and control measures, including but not limited to, physical distancing, sanitation and disinfection practices.¶¶

Note: Oregon OSHA has provided training materials that can be used to complete this portion of the training.¶¶

(j) COVID-19 infection notification process. All employers covered by section (3) of this rule should establish and implement a process to notify exposed employees (those who were within six feet of a confirmed COVID-19 individual for a cumulative total of 15 minutes or more, regardless of whether one or both of them were wearing source control) that they had a work-related contact with an individual who has tested positive for COVID-19, as well as to notify affected employees (those who worked in the same facility or in the same well-defined portion of the facility such as a particular floor) that an individual who was present in the facility has confirmed COVID-19. This notification process should include the following elements: ¶¶

(A) A mechanism for notifying both exposed and affected employees within 24 hours of the employer being made aware that an individual with COVID-19 was present in the workplace while infectious or otherwise may have had work-related contact with its employee(s) while infectious; and¶¶

(B) This notification process should be established and implemented in accordance with all applicable federal and Oregon laws and regulations.¶¶

Note: Employers can satisfy this requirement by adopting the model procedure published by Oregon OSHA.¶¶

Note: The reporting of COVID-19 cases may be required under existing Oregon Health Authority rules regarding reporting of disease cases. OAR 333-018-0016 requires such cases to be reported by healthcare providers and laboratories within 24 hours of identification. ¶¶

Note: Whenever an exposure notification as described by this rule is provided in writing, the notification may be subject to the existing requirements of Oregon OSHA's Access to Employee Exposure and Medical Records standard (29 CFR 1910.1020).¶¶

(k) COVID-19 testing for workers. The employer must cooperate by making its employees and appropriate space available at no cost to the workers whenever a local public health agency or Oregon Health Authority indicate that COVID-19 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.¶¶

(l) Medical removal. Whenever 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, the affected worker(s) must be directed to isolate at home and away from other non-quarantined individuals.¶¶

Note: There are additional medical removal provisions for healthcare settings in subsection (4)(j) of this rule. Note: Other than the obligation to provide such direction and to remove such employees from the workplace, the employer has no obligation to enforce the employee's quarantine or isolation.¶¶

"Contact tracing" requirements as described in subsections (3)(l) and (4)(i) of this rule are not applicable for law enforcement covered in the emergency first responder definition of subsection (2)(e), personal care activities in (1)(c)(F), and handling, packaging, cleaning, processing, or transporting human remains or human tissue specimens or laboratory cultures in (1)(c)(G).¶¶

(A) Whenever an employee participates in quarantine or isolation for COVID-19, the employer must allow the

affected employee(s) to work at home if suitable work is available and the employee's condition does not prevent it.¶

(B) Whenever an employee participates in quarantine or isolation, 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 notified that they are entitled to return to their previous job duties if still available without any adverse action as a result of participation in COVID-19 quarantine or isolation activities. The employee must be advised in writing of the right to return as described and should be provided any relevant information about the employer's paid time off, sick leave, or any other available benefits in accordance with local, state, or federal law.¶

Note: The prohibition on "adverse action" does not require the employer to keep a job available that would not otherwise have been available 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.¶

(C) 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.¶

Note: This provision does not require a negative COVID-19 test or a separate contact with the medical provider.¶

Note: Employees are protected from discrimination or retaliation under ORS 654.062(5). 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 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 Rule Addressing COVID-19 Workplace Risks (OAR 437-001-0744).¶

Note: Notwithstanding the language of OAR 437-001-0700(10), employers do not need to record such "medical removal" cases on their OSHA 300 log(s) simply because the medical removal required by this rule occurred. Cases must be recorded only if the infection of a worker is determined to be "work-related" in accordance with OAR 437-001-0700.¶

(m) Mandatory appendix. Employers covered by the mandatory industry-specific requirements for Emergency Medical Services: First Responders, Firefighters, Emergency Medical Services and Non-Emergency Medical Transport must comply with this appendix. To the degree the appendix provides specific guidance regarding an issue addressed by this rule, it supersedes the general requirements of this rule. To the degree a situation is not addressed by the specific language of the appendix, the requirements of this rule apply as written.¶

(4) Additional COVID-19 Requirements for Workplaces at Exceptional Risk. Workplaces identified by subsection (1)(b) of this rule must adhere to the following specific provisions and 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 provide 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 job duties;¶

(B) The training material is appropriate in content and vocabulary to the education, literacy, and language of the affected workers; and¶

(C) The training provides an opportunity for interactive questions and answers (must be "live" in order to allow immediate response and further clarification but need not be in person) 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 this subsection must include the following elements:¶

(A) An explanation of this rule and its applicable appendices and 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); physiological risk factors; demographic risk factors; and environmental risk factors;¶

(D) An explanation of the employer's COVID-19 exposure risk assessment required by 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 covering, and face shield requirements; and COVID-19 sanitation requirements 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 affect employees at the workplace;¶

(F) Information on the types, use, storage, removal, handling, and maintenance of masks, face coverings, face shields and personal protective equipment (including respirators) provided to employees by the employer; and¶

(G) An explanation of the use and limitation of COVID-19 hazard control measures implemented or installed by the employer. Hazard control measures include engineering, administrative, or work practice controls that

eliminate or otherwise minimize employee exposure to COVID-19.¶¶

(c) Additional infection control plan requirements. In addition to the infection control plan requirements for all workplaces, each employer covered by section (4) of this rule must provide the following in its infection control plan:¶¶

(A) The name(s) of the person responsible for administering the plan. This person must be knowledgeable in infection control principles and practices as they apply to the workplace and employee job operations; and¶¶

(B) The plan must be reevaluated as frequently as necessary to reflect changes in the facility, employee job duties, new technologies, or workplace policies established by the employer that affect worker exposure to COVID-19 or in response to updated guidance published by the Oregon Health Authority (including increases in COVID-19 community spread) that is applicable to the employer's workplace. This reevaluation and update of the infection plan must include feedback from non-managerial, front-line employees who perform activities that reflect the employer's exceptional risk under this rule. This feedback is not required from all employees and may be achieved via a safety meeting, safety committee, supervisor, process negotiated with the exclusive bargaining agent (if any), or any other similarly interactive process.¶¶

(C) Healthcare employers must develop and implement a written personal protective equipment (PPE) supply and crisis management plan in accordance with Oregon Health Authority and Oregon OSHA Interim Guidance: Use of CDC's Optimizing Personal Protective Equipment by Healthcare Personnel in Resource-Constrained Settings.¶¶

(d) Additional sanitation requirements. Use appropriate sanitation measures in addition to the requirements of subsection (3)(c) of this rule to reduce the risk of COVID-19 transmission. Each employer must:¶¶

(A) Develop and implement procedures for routine cleaning and disinfection that are appropriate for SARS-CoV-2 in healthcare settings, including those patient care areas in which aerosol-generating procedures are performed (for example, using cleaners and EPA-registered, hospital-grade disinfectants for frequently touched surfaces or objects in accordance with manufacturer instructions and contact time specifications). Refer to List N on the EPA website for EPA-registered disinfectants that have qualified under EPA's emerging viral pathogens program for use against SARS-CoV-2; and¶¶

(B) Follow standard practices for disinfection and sterilization of medical devices contaminated with COVID-19, as described in the CDC Guideline for Disinfection and Sterilization in Healthcare Facilities, 2008.¶¶

(e) Healthcare personal protective equipment. Depending on the requirements of the procedure (for example, aerosol-generating procedures, a.k.a. AGPs) in question and the disease status of the involved patient(s), employers must use a combination of standard precautions, contact precautions, droplet precautions, airborne precautions, and eye protection (for example, goggles, face shields) to protect healthcare workers with exposure or potential exposure to COVID-19.¶¶

(A) When an employee performs an aerosol-generating healthcare or post-mortem procedure for a patient without evidence of COVID-19 infection, the employer must provide PPE in accordance with CDC's Interim Infection Prevention and Control Recommendations for Healthcare Personnel. Oregon OSHA recognizes that risk of infection in asymptomatic patients can vary based on clinical presentation, level of COVID-19 transmission in the community, recent COVID-19 testing results, and other factors. These factors must be considered in clinical judgment by healthcare personnel involved in direct patient care and medical examiners in making decisions about use of transmission-based precautions.¶¶

(B) Whenever an employee provides direct patient care for a patient known or suspected to be infected with COVID-19, the employer must provide the affected worker with gloves, a gown, eye protection (goggles or face shield), and either a NIOSH-approved respirator or a respirator with a current emergency use authorization by the United States Food and Drug Administration (FDA). If the employer can demonstrate that the availability of respirators is genuinely limited, the employer must ensure that a medical-grade mask is used in place of the respirator.¶¶

Note: If PPE availability is genuinely limited, a procedure cannot be deferred, and appropriate, good-faith efforts are made by the employer to ensure the safety and protection of the healthcare workers, Oregon OSHA will evaluate the situation based on PPE availability and the employer's adherence to CDC's Optimizing Personal Protective Equipment (PPE) Supplies During the COVID-19 Pandemic.¶¶

(C) In lieu of (A) and (B) above, and if PPE availability is limited, such employers may follow CDC's Optimizing Personal Protective Equipment (PPE) Supplies During the COVID-19 Pandemic.¶¶

Note: The CDC does not have a comprehensive list of AGPs in a healthcare setting. Employers should refer to the AGP list maintained by Oregon Health Authority.¶¶

(f) Heightened risk ventilation requirements. In addition to the ventilation provisions of subsection (3)(f) of this rule (including any applicable certification provisions), certain heightened risk facilities must meet the following requirements to the degree that they are under the employer's control:¶¶

(A) Existing ventilation systems in hospitals, ambulatory surgical centers, and long-term care facilities that provide skilled or intermediate level nursing care must be operated, when possible, in accordance with local building codes and applicable provisions of the American National Standards Institute (ANSI)/American Society of Heating,

Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards 62.1 and 62.2 (ASHRAE 2019a, 2019b), which include requirements for outdoor air ventilation in most residential and nonresidential spaces, and ANSI/ASHRAE/ASHE Standard 170 (ASHRAE 2017a) covers both outdoor and total air ventilation in healthcare facilities.¶¶

Note: This does not require installation of new ventilation equipment.¶¶

(B) Existing ventilation systems in other healthcare facilities must be upgraded to a minimum MERV 13 rating, provided that such an upgrade will result in no significant performance reduction of the system.¶¶

Note: This does not require installation of new ventilation equipment.¶¶

(g) Barriers, partitions, and airborne infection isolation rooms in healthcare settings. The employer must employ the following measures to protect healthcare employees, support workers, patients, and visitors from individuals known or suspected to be infected with COVID-19:¶¶

(A) When available, use airborne infection isolation rooms (AIIRs) with proper ventilation to house patients known or suspected to be infected with COVID-19;¶¶

(B) Patients known or suspected of being infected with COVID-19 must don a face covering and be isolated in an examination room with the door closed. If an examination room is not immediately available, such patients must not be allowed to wait within six feet of other patients seeking care and should be encouraged to wait in a personal vehicle or outside the healthcare setting where they can be contacted by mobile device when it is their turn to be evaluated. During a medical emergency, all measures may not be feasible, but must be implemented in whole or in part as the patient's condition and necessary medical care allow. If a patient cannot tolerate any form of face covering due to a medical condition, strict physical distancing and appropriate PPE must be used to protect patients and workers, respectively; ¶¶

(C) Use physical barriers or partitions in triage areas to guide patients when appropriate; and¶¶

(D) Use curtains to separate patients in semi-private areas. ¶¶

(h) Screening in healthcare settings. Oregon OSHA no longer requires employers to screen and triage all individuals entering its healthcare setting for symptoms of COVID-19.¶¶

(i) Exposure notification process in certain healthcare settings. Oregon OSHA no longer requires exposure notification in healthcare settings.¶¶

(j) Medical removal provisions in healthcare settings. The only exception to the quarantine and isolation provisions of subsection (3)(l) of this rule exists when a healthcare provider, emergency responder, or other worker who would otherwise be quarantined or isolated remains on the job under Oregon Health Authority guidelines.¶¶

(k) Physical distancing. Oregon OSHA no longer requires healthcare employers to implement physical distancing.¶¶

(l) Mask, face covering, or face shield requirements. ¶¶

(A) Healthcare employers must ensure that all individuals in the workplace wear a mask, face covering, or face shield unless otherwise exempt under paragraph (4)(l)(B) of this rule. ¶¶

(B) Masks, face coverings, or face shields are not required if the individual:¶¶

(i) Is under 5 years of age (or is under 2 years of age and using public transportation or in transportation hubs);¶¶

(ii) Is eating or drinking;¶¶

(iii) Is engaged in an activity that makes wearing a mask, face covering or face shield not feasible, such as when taking a shower;¶¶

(iv) Is sleeping;¶¶

(v) Is in a room or vehicle shared only with members of the same household, or¶¶

(vi) Is required to briefly remove their mask, face covering, or face shield because their identity needs to be confirmed by visual comparison, such as at the bank or if interacting with law enforcement. During such instances, individuals should limit speaking while the mask, face covering, or face shield is removed or displaced.¶¶

Note: While reasonable accommodation for those unable to wear a mask, face covering, or face shield due to a disability must be provided under applicable state law (ORS 659A.103 to 659A.145) and federal law (42 U.S.C. Chapter 126), such an accommodation does not include simply exempting individuals from the requirement to wear masks, face coverings, or face shields in public spaces or places of employment.¶¶

(C) The employer must provide masks, face coverings, or face shields for employees at no cost to the worker. If an employee chooses to wear their own mask, face shield, or face covering instead of those provided by the employer, the employer may allow it but is not required to do so.¶¶

(D) When an employee chooses to wear a filtering facepiece respirator instead of a mask, face covering, or face shield, the employer must allow that use and follow the "voluntary use" provisions of the Respiratory Protection Standard (29 CFR 1910.134).¶¶

Note: An employer is not obligated to provide filtering facepiece respirators to employees under this section, nor are employers required to provide or allow any other type of respirator, unless required by another part of this rule.¶¶

(E) If an employee chooses to wear a mask, face shield, or face covering even when it is not required, the employer must allow them to do so.¶¶



(m) Medical removal protection benefits. Medical removal protection benefits as described by this subsection must be provided whenever employees covered by this subsection are unable to work due to the medical removal provisions outlined under subsections (3)(l) and (4)(j) of this rule.¶¶

(A) Except as otherwise provided by paragraph (4)(m)(B), medical removal protection benefits as outlined under paragraph (4)(m)(C) apply to all employees engaged in direct patient care or in direct support of such care, including patient intake or admission, patient food services, equipment and facility maintenance, housekeeping services, healthcare laundry services, medical waste handling services, and medical equipment cleaning or reprocessing services. This provision does not apply to office or administrative functions that do not involve contact with patients or patient care spaces, such as bookkeeping, payroll, or accounting services.¶¶

(B) The medical removal protection benefits of this subsection do not apply to the following:¶¶

(i) Employers with 10 or fewer employees,¶¶

(ii) Employees whose COVID-19 illness or quarantine cannot reasonably have resulted from a workplace exposure,¶¶

(iii) Individuals who are not in compliance with Oregon Health Authority COVID-19 vaccination requirements, without regard to the effective date of those requirements,¶¶

(iv) The provision of first aid by an employee who is not otherwise a healthcare provider,¶¶

(v) The dispensing of prescriptions by pharmacists in retail settings,¶¶

(vi) Non-hospital ambulatory care settings where all non-employees are screened prior to entry and individuals with suspected or confirmed COVID-19 are not permitted to enter those settings,¶¶

(vii) Well-defined ambulatory care settings within hospitals where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not permitted to enter those settings,¶¶

(viii) Home healthcare settings where all employees are fully vaccinated and all non-employees are screened prior to entry and people with suspected or confirmed COVID-19 are not present,¶¶

(ix) Healthcare support services not performed in a healthcare setting (for example, off-site laundry, off-site food preparation), or¶¶

(x) Telehealth services performed outside of a setting where direct patient care occurs.¶¶

(C) When an employee subject to this subsection is subject to medical removal as required by the rule and the required isolation or quarantine prevents the employee from working, the following medical removal protection benefits must be provided:¶¶

(i) The employer must continue to provide the benefits to which the employee would normally be entitled when working;¶¶

(ii) For employers with 500 or more employees, the employer must pay the employee the same regular (non-overtime) pay the employee would have received had the employee not been absent from work, up to a maximum of \$1,400 per week, until the employee is able to return to work as described in subsection (3)(l) of this rule;¶¶

(iii) For employers with fewer than 500 employees, the employer must pay the employee benefit described in subparagraph (4)(m)(C)(ii) of this rule, but beginning in the third week of an employee's removal, the employer is permitted to reduce the amount to only two-thirds of the same regular pay the employee would have received had the employee not been absent from work, up to \$200 per day (\$1,000 per week in most cases).¶¶

(D) The employer's obligation under paragraph (4)(m)(C) of this rule is reduced by the amount of compensation for lost earnings that the employee receives from any other source, such as a publicly or employer-funded compensation program (for example, workers compensation, paid sick leave, administrative leave, or other employer-provided leave that does not carry a cash value). The employer cannot take such benefits into account until they have actually been received by the employee.¶¶

Note: It is important to recognize other regulatory bodies may have additional requirements relating to exceptional risk beyond Oregon OSHA requirements.¶¶

¶¶

(5) COVID-19 Requirements for all workplaces not covered under exceptional risk workplaces sections (3) and (4), as defined in section (1)(b).¶¶

(a) Masks, face coverings, and face shields.¶¶

(A) The employer must provide masks, face coverings, or face shields for employees at no cost to the worker. If an employee chooses to wear their own mask, face covering, or face shield instead of those provided by the employer, the employer may allow it but is not required to do so.¶¶

(B) When an employee chooses to wear a filtering facepiece respirator to protect against COVID-19, the employer must allow that use and follow the "voluntary use" provisions of the Respiratory Protection Standard (29 CFR 1910.134).¶¶

Note: An employer is not obligated to provide filtering facepiece respirators to employees under this section, nor are employers required to provide or allow any other type of respirator, unless required by another part of this rule.¶¶

(C) When an employee chooses to wear a mask, face covering, or face shield even when it is not required, the employer must allow them to do so. ¶¶

Note: Employees are protected from discrimination or retaliation under ORS 654.062(5). 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 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 Rule Addressing COVID-19 Workplace Risks (OAR 437-001-0744). ¶¶

(b) COVID-19 testing for workers. If COVID-19 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. ¶¶

(c) Routine ventilation maintenance and evaluation. Employers covered by section (5) of this rule, should optimize the amount of outside air circulated through its existing heating, ventilation, and air conditioning (HVAC) system(s), in accordance of subsection (3)(f). ¶¶

(d) COVID-19 infection notification process. The employers covered by this section (5) of this rule, should establish and implement a process to notify exposed employees (those who were within six feet of a confirmed COVID-19 individual for a cumulative total of 15 minutes or more, regardless of whether one or both of them were wearing source control) that they had a work-related contact with an individual who has tested positive for COVID-19, as well as to notify affected employees (those who worked in the same facility or in the same well-defined portion of the facility such as a particular floor) that an individual who was present in the facility has confirmed COVID-19. This notification process should include the following elements: ¶¶

(A) A mechanism for notifying both exposed and affected employees within 24 hours of the employer being made aware that an individual with COVID-19 was present in the workplace while infectious or otherwise may have had work-related contact with its employee(s) while infectious; and ¶¶

(B) This notification process should be established and implemented in accordance with all applicable federal and Oregon laws and regulations. ¶¶

Note: Employers may use the model procedure published by Oregon OSHA. ¶¶

Note: The reporting of COVID-19 cases may be required under existing Oregon Health Authority rules regarding reporting of disease cases. OAR 333-018-0016 requires such cases to be reported by healthcare providers and laboratories within 24 hours of identification. ¶¶

Note: Whenever an exposure notification as described by this rule is provided in writing, the notification may be subject to the existing requirements of Oregon OSHA's Access to Employee Exposure and Medical Records standard (29 CFR 1910.1020). ¶¶

(e) Medical removal. Employers covered by section (5) of this rule should follow Oregon Health Authority, public health, or medical provider recommendations for isolation or quarantine of employees for COVID-19.

Statutory/Other Authority: ORS 654.025(2), ORS 654.035, ORS 656.726(4), ORS 654.025(3)(a)

Statutes/Other Implemented: ORS 654.001 through 654.295

AMEND: 437-002-0134

RULE SUMMARY: OAR 437-002-0134 Personal Protective Equipment in Division 2 – While Oregon OSHA proposes to repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In response, the agency proposes retaining the ability for an employee to wear a facial covering, if they so choose in the Division 2 Personal Protective Equipment rule. Employers would no longer be responsible for providing facial coverings to their employees. However, if employers require their use, they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

CHANGES TO RULE:

437-002-0134

## Personal Protective Equipment ¶

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.¶

Note: The assessment for eyes, face, head, hands, and feet are currently in effect. The torso and extremities (e.g. arms and legs) element of the body assessment will not be enforced until July 1, 2012.¶

(1) Hazard assessment and equipment selection.¶

(a) The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:¶

(A) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;¶

(i) All protective equipment must be of safe design and construction for the work to be performed.¶

(ii) Protective equipment must be worn and used in a manner which will make full use of its protective properties.¶

(B) Communicate selection decisions to each affected employee; and,¶

(C) Select PPE that properly fits each affected employee.¶

~~NOTE~~ote: Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.¶

(b) The employer must verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.¶

(2) Equipment.¶

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.¶

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.¶

(c) Defective or damaged personal protective equipment must not be used.¶

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.¶

(3) Training.¶

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:¶

(A) When PPE is necessary;¶

(B) What PPE is necessary;¶

(C) How to properly don, doff, adjust, and wear PPE;¶

(D) The limitations of the PPE; and,¶

(E) The proper care, maintenance, useful life and disposal of the PPE.¶

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.¶

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such

employee. Circumstances where retraining is required include, but are not limited to situations where:¶

(A) Changes in the workplace render previous training obsolete; or¶

(B) Changes in the types of PPE to be used render previous training obsolete; or¶

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.¶

(4) Payment for protective equipment.¶

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.¶

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.¶

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.¶

(d) The employer is not required to pay for:¶

(A) The logging boots required by OAR 437-007-0330 in Division 7.¶

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or¶

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.¶

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.¶

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.¶

(5) Fall Protection.¶

(a) Motor and Rolling Stock Vehicles.¶

(A) All employees must be protected from fall hazards when working on motor and rolling stock vehicle surfaces more than 10 feet above a lower level or at any height above dangerous equipment.¶

(B) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1910.140 in this Subdivision.¶

~~NOTE~~ote to 437-002-0134(5)(a): The duty to provide fall protection for employees on walking-working surfaces other than motor and rolling stock vehicles is covered by 1910.28 (Duty to have fall protection and falling object protection) within 2/D. The criteria and practices for fall protection systems for walking-working surfaces other than motor and rolling stock vehicles is covered by 1910.29 within 2/D.¶

(b) Travel Restraint Systems. The employer must ensure each employee using a travel restraint system (personal fall restraint) is prevented from going over the edge by providing, installing and ensuring its use according to the criteria in 1910.140 in this Subdivision with the following exceptions to 1910.140:¶

(A) 1910.140(c)(13) does not apply when anchorages used solely for travel restraint are:¶

(i) Capable of supporting 3000 pounds (13.34 kN) per employee attached; or¶

(ii) Are designed, installed and used under the supervision of a qualified person, as part of a complete personal fall protection system that maintains a safety factor of at least two.¶

(B) 1910.140(c)(22) does not apply. The attachment point to the body belt or full body harness may be at the back, front or side D-ring.¶

(6) Work Clothing.¶

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.¶

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.¶

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.¶

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.¶

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.¶

(f) Allow employees to wear a face covering if they so choose, unless doing so creates or otherwise exposes the employee to a hazard. Employers must supply these items at no cost to employees when the employer requires their use.¶

Note: For purposes of this rule, employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.¶

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.¶

(8) Eye And Face Protection.¶

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.¶

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.¶

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.¶

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.¶

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations.¶

[Insert Table 2-I 1 and Table 2-I 2]¶

(f) Protective eye and face protection devices must comply with any of the following consensus standards¶

(A) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in 1910.6;¶

(B) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6; or¶

(C) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6.¶

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.¶

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.¶

(9) Head Protection.¶

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.¶

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.¶

(c) Head protection must comply with any of the following consensus standards:¶

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6;¶

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6; or¶

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6.¶

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.¶

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.¶

(10) Foot Protection.¶

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards, such as static-discharge or electric-shock hazard, that remains after the employer takes other necessary protective measures.¶

(b) Protective footwear must comply with any of the following consensus standards:¶

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in

1910.6;¶

(B) ANSI Z41-1999, American National Standard for Personal Protection -Protective Footwear, which is incorporated by reference in 1910.6; or¶

(C) ANSI Z41-1991, American National Standard for Personal Protection - Protective Footwear, which is incorporated by reference in 1910.6.¶

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.¶

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.¶

(11) Leg protection¶

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.¶

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.¶

~~NOTE~~ote to 437-002-0134(11)(b): Employees working in the tree and shrub services industry must follow rules on this subject in Subdivision 2/R instead of the above.¶

(12) Hand Protection.¶

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.¶

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.¶

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.¶

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.¶

~~[ED. NOTE: Tables referenced are available from the agency.]~~

Statutory/Other Authority: ORS 654.025(2), 656.726(4)

Statutes/Other Implemented: ORS 654.001 - 654.295

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

**Tables in 437-002-0134: Personal Protective Equipment**

Under 437-002-0134 (8)(e) Eye And Face Protection.

*Table 2-I 1 Filter Lenses for Protection Against Radiant Energy*

<i>Operations</i>	<i>Electrode Size 1/32 in.</i>	<i>Arc Current (amps)</i>	<i>Minimum* Protective Shade</i>
<i>Shielded metal arc welding</i>	<i>Less than 3</i>	<i>Less than 60</i>	<i>7</i>
	<i>3-5</i>	<i>60-160</i>	<i>8</i>
	<i>5-8</i>	<i>160-250</i>	<i>10</i>
	<i>More than 8</i>	<i>250-550</i>	<i>11</i>
<i>Gas metal arc welding and flux cored arc welding</i>		<i>Less than 60</i>	<i>7</i>
		<i>60-160</i>	<i>10</i>
		<i>160-250</i>	<i>10</i>
		<i>250-500</i>	<i>10</i>
<i>Gas Tungsten arc welding</i>		<i>Less than 50</i>	<i>8</i>
		<i>50-150</i>	<i>8</i>
		<i>150-500</i>	<i>10</i>
<i>Air carbon</i>	<i>(Light)</i>	<i>Less than 500</i>	<i>10</i>
<i>Arc cutting</i>	<i>(Heavy)</i>	<i>500-1000</i>	<i>11</i>
<i>Plasma arc welding</i>		<i>Less than 20</i>	<i>6</i>
		<i>20-100</i>	<i>8</i>
		<i>100-400</i>	<i>10</i>
		<i>400-800</i>	<i>11</i>
<i>Plasma arc cutting</i>	<i>(Light) **</i>	<i>Less than 300</i>	<i>8</i>
	<i>(Medium) **</i>	<i>300-400</i>	<i>9</i>
	<i>(Heavy) **</i>	<i>400-800</i>	<i>10</i>
<i>Torch brazing</i>		<i>.....</i>	<i>3</i>
<i>Torch soldering</i>		<i>.....</i>	<i>2</i>
<i>Carbon arc welding</i>		<i>.....</i>	<i>14</i>

*Table 2-I 2 Filter Lenses for Protection Against Radiant Energy*

<i>Operations</i>	<i>Plate thickness – inches</i>	<i>Plate thickness – mm</i>	<i>Minimum* Protective Shade</i>
<i>Gas Welding:</i>			
<i>Light</i>	<i>Under 1/8</i>	<i>Under 3.2</i>	<i>4</i>
<i>Medium</i>	<i>1/8 to 1/2</i>	<i>3.2 to 12.7</i>	<i>5</i>
<i>Heavy</i>	<i>Over 1/2</i>	<i>Over 12.7</i>	<i>6</i>
<i>Oxygen Cutting:</i>			
<i>Light</i>	<i>Under 1</i>	<i>Under 25</i>	<i>3</i>
<i>Medium</i>	<i>1 to 6</i>	<i>25 to 150</i>	<i>4</i>
<i>Heavy</i>	<i>Over 6</i>	<i>Over 150</i>	<i>5</i>

*\* As a rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxy-fuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.*

*\*\* These values apply where the actual arc is clearly seen. Experience has shown that lighter filters may be used when the arc is hidden by the workpiece.*



RULE SUMMARY: OAR 437-003-0134 Personal Protective Equipment in Division 3 – While Oregon OSHA proposes to repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In response, the agency proposes retaining the ability for an employee to wear a facial covering, if they so choose in the Division 3 Personal Protective Equipment rule. Employers would no longer be responsible for providing facial coverings to their employees. However, if employers require their use, they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

CHANGES TO RULE:

437-003-0134

Personal Protective Equipment ¶

~~[Reserved]~~Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.¶

(1) Hazard assessment and equipment selection. The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:¶

(a) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;¶

(A) All protective equipment must be of safe design and construction for the work to be performed.¶

(B) Protective equipment must be worn and used in a manner which will make full use of its protective properties.¶

(b) Communicate selection decisions to each affected employee; and,¶

(c) Select PPE that properly fits each affected employee.¶

Note: Non-mandatory Appendix B to Subdivision 2/I, contains an example of procedures that would comply with the requirement for a hazard assessment.¶

(2) Equipment.¶

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.¶

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.¶

(c) Defective or damaged personal protective equipment must not be used.¶

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.¶

(3) Training.¶

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:¶

(A) When PPE is necessary;¶

(B) What PPE is necessary;¶

(C) How to properly don, doff, adjust, and wear PPE;¶

(D) The limitations of the PPE; and,¶

(E) The proper care, maintenance, useful life and disposal of the PPE.¶

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.¶

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:¶

(A) Changes in the workplace render previous training obsolete; or¶

(B) Changes in the types of PPE to be used render previous training obsolete; or¶

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.¶

(4) Payment for protective equipment.¶

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.¶

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.¶

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.¶

(d) The employer is not required to pay for:¶

(A) The logging boots required by OAR 437-007-0330 in Division 7.¶

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or¶

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.¶

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.¶

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.¶

(5) Fall Protection.¶

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.¶

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.¶

(6) Work Clothing.¶

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.¶

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.¶

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.¶

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.¶

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.¶

(f) Allow employees to wear a face covering if they so choose, unless doing so creates or otherwise exposes the employee to a hazard. Employers must supply these items at no cost to employees when the employer requires their use.¶

Note: For purposes of this rule, employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.¶

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.¶

(8) Eye And Face Protection.¶

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.¶

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.¶

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.¶

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.¶

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation.¶

[Insert Table 1 and Table 2 for 437-003-0134(8)(e)]¶

- (f) Protective eye and face protection devices must comply with any of the following consensus Standards.¶  
(A) ANSI/ISEA Z87.1-2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in 1926.6;¶  
(B) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1926.6; or¶  
(C) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1926.6.¶  
(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.¶  
(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.¶  
(9) Head Protection.¶  
(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.¶  
(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.¶  
(c) Head protection must comply with any of the following consensus standards:¶  
(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6;¶  
(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6;¶  
(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1926.6; or¶  
(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.¶  
(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.¶  
(10) Foot Protection.¶  
(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.¶  
(b) Protective footwear must comply with any of the following consensus standards:¶  
(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1926.6;¶  
(B) ANSI Z41-1999, American National Standard for Personal Protection -Protective Footwear, which is incorporated by reference in 1926.6; or¶  
(C) ANSI Z41-1991, American National Standard for Personal Protection -Protective Footwear, which is incorporated by reference in 1926.6.¶  
(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.¶  
(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.¶  
(11) Leg protection.¶  
(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.¶  
(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.¶  
(12) Hand Protection.¶  
(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.¶  
(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use,

and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

Statutory/Other Authority: ORS 654.025(2), 656.726(4)

Statutes/Other Implemented: ORS 654.001 - 654.295

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

## Tables in 437-003-0134: Personal Protective Equipment

Under 437-003-0134 (8)(e) Eye And Face Protection.

*Table 1 - Filter Lenses for Protection Against Radiant Energy*

<i>Operations</i>	<i>Electrode Size 1/32 in.</i>	<i>Arc Current (amps)</i>	<i>Minimum* Protective Shade</i>
<i>Shielded metal arc welding</i>	<i>Less than 3</i>	<i>Less than 60</i>	<i>7</i>
	<i>3-5</i>	<i>60-160</i>	<i>8</i>
	<i>5-8</i>	<i>160-250</i>	<i>10</i>
	<i>More than 8</i>	<i>250-550</i>	<i>11</i>
<i>Gas metal arc welding and flux cored arc welding</i>		<i>Less than 60</i>	<i>7</i>
		<i>60-160</i>	<i>10</i>
		<i>160-250</i>	<i>10</i>
		<i>250-500</i>	<i>10</i>
<i>Gas Tungsten arc welding</i>		<i>Less than 50</i>	<i>8</i>
		<i>50-150</i>	<i>8</i>
		<i>150-500</i>	<i>10</i>
<i>Air carbon</i>	<i>(Light)</i>	<i>Less than 500</i>	<i>10</i>
<i>Arc cutting</i>	<i>(Heavy)</i>	<i>500-1000</i>	<i>11</i>
<i>Plasma arc welding</i>		<i>Less than 20</i>	<i>6</i>
		<i>20-100</i>	<i>8</i>
		<i>100-400</i>	<i>10</i>
		<i>400-800</i>	<i>11</i>
<i>Plasma arc cutting</i>	<i>(Light) **</i>	<i>Less than 300</i>	<i>8</i>
	<i>(Medium) **</i>	<i>300-400</i>	<i>9</i>
	<i>(Heavy) **</i>	<i>400-800</i>	<i>10</i>
<i>Torch brazing</i>		.....	<i>3</i>
<i>Torch soldering</i>		.....	<i>2</i>
<i>Carbon arc welding</i>		.....	<i>14</i>

*Table 2 - Filter Lenses for Protection Against Radiant Energy*

<i>Operations</i>	<i>Plate thickness – inches</i>	<i>Plate thickness – mm</i>	<i>Minimum* Protective Shade</i>
<i>Gas Welding:</i>			
<i>Light</i>	<i>Under 1/8</i>	<i>Under 3.2</i>	<i>4</i>
<i>Medium</i>	<i>1/8 to 1/2</i>	<i>3.2 to 12.7</i>	<i>5</i>
<i>Heavy</i>	<i>Over 1/2</i>	<i>Over 12.7</i>	<i>6</i>
<i>Oxygen Cutting:</i>			
<i>Light</i>	<i>Under 1</i>	<i>Under 25</i>	<i>3</i>
<i>Medium</i>	<i>1 to 6</i>	<i>25 to 150</i>	<i>4</i>
<i>Heavy</i>	<i>Over 6</i>	<i>Over 150</i>	<i>5</i>

*\* As a rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxy-fuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.*

*\*\* These values apply where the actual arc is clearly seen. Experience has shown that lighter filters may be used when the arc is hidden by the workpiece.*

AMEND: 437-004-1030

RULE SUMMARY: OAR 437-004-1030 Work Clothing in Division 4 – While Oregon OSHA proposes to repeal its COVID-19 rules, the agency recognizes that some employees may still feel vulnerable to contracting COVID-19. In response, the agency proposes retaining the ability for an employee to wear a facial covering, if they so choose in the Division 4 Work Clothing rule. Employers would no longer be responsible for providing facial coverings to their employees. However, if employers require their use they must supply these items at no cost to employees. Oregon OSHA also adds a note stating that employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

CHANGES TO RULE:

437-004-1030  
Work Clothing ¶

(1) General requirements. Ensure that employees:¶

(a) Wear clothing that provides adequate protection for the hazards of the work.¶

(b) Do not wear loose sleeves or other loose clothing when near enough to be caught in moving parts of machinery.¶

NOTE: See Divisions 4/O and 4/P for equipment and tool guarding requirements.¶

(c) Do not wear clothing soaked with flammable liquids or contaminated with other hazardous substances.¶

NOTE: See Subdivision 4/P, 437-004-2230 for requirements for PPE while using chain saws.¶

(2) High visibility garments.¶

(a) The employer is responsible to determine, before work begins, if any task or work assigned will expose employees to hazards caused by on-highway type moving vehicles in work zones and street or highway traffic.¶

(b) Work that exposes employees to these hazards must comply with Division 2/I, 437-002-0134(7) High Visibility Garments.¶

(3) Face coverings.¶

(a) Allow employees to wear a face covering if they so choose, unless doing so creates or otherwise exposes the employee to a hazard.¶

(b) Employers must supply these items at no cost to employees when the employer requires their use.¶

Note: For purposes of this rule, employers are not required to allow voluntary use of respirators if an employee requests to use one in lieu of a face covering.

Statutory/Other Authority: ORS 654.025(2), 656.726(4)

Statutes/Other Implemented: ORS 654.001 - 654.295

REPEAL: 437-004-1115

RULE SUMMARY: OAR 437-004-1115 – Oregon OSHA proposes to permanently repeal the COVID-19 Workplace Requirements for Employer-Provided Labor Housing rule. This rule is already temporarily suspended through Administrative Order 1-2023 and aligns with the Oregon Health Authority's public health order that rescinded healthcare setting masking requirement effective April 3, 2023. This rulemaking fulfills Oregon OSHA's stated commitment to repeal its rule when it is no longer necessary to address the COVID-19 pandemic.

CHANGES TO RULE:

#### ~~437-004-1115~~

##### ~~COVID-19 Workplace Requirements for Employer-Provided Labor Housing~~

~~Note: Oregon OSHA's temporary rule addressing COVID-19 in employer-provided labor housing expired on October 24, 2020, 180 days after its adoption. Under the Oregon Administrative Procedures Act, a temporary rule cannot be renewed or extended beyond 180 days. Therefore, Governor Brown issued an Executive Order 20-58 extending the requirements of employer-provided labor housing of the temporary rule. The Executive Order expired on April 30, 2021. In order to extend protections for workers against COVID-19, which remains a significant concern, Oregon OSHA adopted this rule following the normal process for permanent rulemaking. However, the purpose of this rule is to address the COVID-19 pandemic in employer-provided housing in Oregon. Oregon OSHA will repeal the rule when it is no longer necessary to address that pandemic. Because it is not possible to assign a specific time for that decision, Oregon OSHA will continue to consult with the Oregon OSHA Partnership Committee, the Oregon Health Authority, and other stakeholders as circumstances change to determine when all or parts of the rule can be appropriately repealed. Oregon OSHA and its stakeholders will consider indicators and other information such as (but not limited to) Executive Orders issued by the Governor, guidance issued by the Oregon Health Authority (OHA) and the Centers for Disease Control, infection rates (including the rate of spread of COVID-19 variants), positivity rates, and vaccination rates, as well as indicators of severity such as hospitalizations and fatalities.¶¶~~

~~In accordance with its commitment to repeal the rule when it is no longer necessary, on April 13, 2022, Oregon OSHA amended this rule to remove several sections, including ventilation requirements, physical distance monitoring, and the Air Purification or Capacity Reduction Method for calculating square footage for spaces where people sleep. The changes were in response to Governor Brown's announcement of updated health guidance on February 28, 2022, and direction from the Oregon Health Authority. In order for these changes to take immediate effect, they were effectuated via a temporary rule. As stated above, a temporary rule cannot be renewed or extended beyond 180 days. Therefore, in order to preserve the changes made on April 13, 2022, as advised by the Oregon Health Authority, Oregon OSHA is adopting this rule following the normal process for permanent rulemaking. Failure to adopt this rule would result in the rule reverting to its form as of December 21, 2021 (Administrative Order 15-2021).¶¶~~

##### ~~(1) Scope and application.¶¶~~

~~(a) This rule applies to all employer-provided labor housing and other employer-provided housing, whether such housing is otherwise currently covered by OAR 437-004-1120 "Agricultural Labor Housing and Related Facilities" or by 29 CFR 1910.142 and OAR 437-002-0142 "Labor Camps." To the degree an actual conflict exists between the two rules, this rule takes precedence. To the degree that this rule does not address an issue, or no actual conflict exists, the requirements of the preexisting rule also apply. The requirements of this rule apply to all labor housing sites owned, operated, or allowed to operate on property under the jurisdiction of any state or municipal authority unless such housing is provided by someone other than the employer specifically to respond to a public health emergency. The requirements of this rule supersede those contained in section (5) of OAR 437-001-0744 (COVID-19 Requirements for All Workplaces), specifically as they relate to ventilation, facial coverings, physical distancing measures, and sanitation. All other applicable requirements of OAR 437-001-0744 remain in effect.¶¶~~

~~(b) These rules apply to any place, or area of land, where there are living areas, manufactured or prefabricated homes or dwellings, or other housing provided by a farmer, farm labor contractor, agricultural employer, or other person in connection with the recruitment of workers of an agricultural employer as defined in OAR 437-004-0001. These rules also apply to any such housing provided by an employer or other person in connection with the employment of workers in any non-agricultural business activity.¶¶~~

~~(c) These rules apply to any type of labor housing and related facilities together with the tract of land established or to be established, operated or maintained for housing workers with or without families, whether or not rent is paid or collected.¶¶~~

~~(d) Manufactured dwellings and homes must comply with specifications for construction of sleeping places, unless they comply with ORS 446.155 to 446.185 and OAR 918-500-0020(2), which have the requirements and specifications for sanitation and safety design for manufactured dwellings.¶¶~~



- (e) These rules apply to housing given to, rented, leased to, or otherwise provided to employees for use while employed and provided or allowed either by the employer, a representative of the employer, or a housing operator. ¶
- (f) These rules, unless otherwise stated, apply to all occupants of the labor housing and facilities. ¶
- (g) These rules apply to all labor housing sites owned, operated, or allowed to operate on property under the jurisdiction of any state or municipal authority unless such housing is provided by someone other than the employer specifically to respond to a public health emergency. ¶
- (h) Violations relating to the occupants' personal housekeeping practices in facilities that are not common use will not result in citations to the employer. ¶
- (i) For the purposes of OAR 437-004-1120, labor contractors as defined in ORS 658.405 are employers. ¶
- (j) Charging occupants for required services. Operators must not charge for services required by these rules: OAR 437-004-1120, OAR 437-001-0744, and OAR 437-004-1115. This prohibits pay-per-use toilets, pay-per-use bathing facilities, payment for use of air purifiers, or any other method of paying for individual service requirements. ¶
- (k) This rule does not apply to: ¶
- (A) Hotels or motels that provide similar housing commercially to the public on the same terms as they do to workers. This includes hotels or motels that have been temporarily closed due to the current COVID-19 public health emergency, but that restore their operations on a limited basis to allow employers to house workers in the facility, provided that the following conditions are met. ¶
- (i) The hotel or motel facility must be licensed and meet the other requirements in OAR 333, Division 29, Travelers' Accommodation. ¶
- (ii) The rooms provided must maintain the configuration typically offered to travelers (while this does not preclude changing the arrangement of beds, it does preclude the addition of bunk beds or other measures to increase the occupancy of the room). ¶
- (iii) Room assignment must ensure privacy and separation for families and to unrelated occupants of different genders. ¶
- (iv) The occupied rooms must continue to receive regular services for cleaning and for the laundry of linens used by guests. ¶
- (v) The rooms must not be modified to include kitchen facilities not already part of the room as previously available to guests. ¶
- Note: Because such facilities are exempt from this rule, the presence of a preexisting kitchenette or other food preparation facility does not trigger the square footage requirements of the rule. ¶
- (B) Accommodations subject to licensing such as manufactured dwelling parks, organizational camps, travelers' accommodations or recreation vehicle parks and open to the general public on the same terms. ¶
- (C) Manufactured homes or dwellings being moved regularly from place to place, because of the work, when at parks or camps meant for parking mobile vehicles and open to the general public on the same terms. ¶
- (2) Definitions. ¶
- (a) Air purifier – means a HEPA-filter equipped device that is designed for and capable of removing aerosols (including airborne droplets and solid particles) from the air through physical or chemical means and that is capable of improving the indoor air quality in areas where such purifiers are properly operated. ¶
- (b) High-efficiency particulate air (HEPA) filter – means a filter that is at least 99.97 percent efficient in removing monodisperse particles of 0.3 micrometers (2m) in diameter. ¶
- (3) Masks, face Coverings, and face shields. Oregon OSHA no longer requires employers to ensure that individuals in the labor housing wear a mask, face covering, or face shield as source control. ¶
- (a) If an employee chooses to wear a mask, face shield, or face covering even when not required, the employer must allow them to do so. ¶
- (b) When an employee chooses to wear a filtering facepiece respirator to protect against COVID-19, the employer must allow that use and follow the "voluntary use" provisions of the Respiratory Protection Standard (OAR 437-004-1041 or 29 CFR 1910.134). ¶
- (4) Special housing capacity measures. Operators and owners of employer-provided housing must comply with the provisions of (4)(a) and (4)(b). Oregon OSHA no longer requires the air purification method or the reduced capacity method to be followed in employer provided housing. The occupancy requirements revert to the provisions in OAR 437-004-1120 (15) for sleeping rooms or rooms where occupants cook, live, and sleep. ¶
- (a) For air purifiers provided by the owner or operator, allow occupants to continue to use them and maintain the equipment at no cost. ¶
- (b) For air purifiers provided by the occupant, allow occupants to use them at no cost. ¶
- (5) COVID-19 response plan. ¶
- (a) In order to identify individuals known or suspected to be infected with COVID-19, all housing providers covered by this rule must take the following steps: ¶

(A) Suspect COVID-19 cases should be encouraged to seek advice by telephone or similar mobile devices from a healthcare provider to determine whether further in-person medical evaluation is needed;¶¶

(B) Suspect COVID-19 cases must be isolated with sleeping, eating, and bathroom accommodations that are separate from non-isolating occupants. COVID-19 infected individuals must 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, the employer must follow the Oregon Health Authority recommendations for Isolation and Quarantine Guidance; and ¶¶

(C) If able, occupants known or suspected to be infected with COVID-19 must clean and disinfect their own sleeping, eating, or bathroom accommodations after each use.¶¶

(b) Confirmed COVID-19 infected persons must be isolated and only housed with other confirmed cases. Isolated persons must have separate bathroom, cooking and eating facilities separate 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.¶¶

(A) If able, occupants confirmed to have COVID-19 must clean and disinfect their own sleeping, eating, or bathroom accommodations after each use.¶¶

(B) 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. ¶¶

(c) Occupants who are not suspected or confirmed to have COVID-19 should not use any bed, bathroom, or common area previously used by an individual suspected or confirmed to have COVID-19 until it is thoroughly cleaned following the Oregon Health Authority or local health authority's guidance provided to the operator for cleaning and sanitation after a suspected or confirmed case.¶¶

(d) Instruct occupants that if they are sick or have COVID-19 symptoms, they must alert their housing operator as soon as possible.

Statutory/Other Authority: ORS 654.025(2), 654.035, 656.726(4)

Statutes/Other Implemented: 654.001 through 654.295