



## Temporary Rule Addressing The COVID-19 Workplace Risks

*Questions and Answers*

The responses in this document represent Oregon OSHA's current position on issues involving the Temporary Rule addressing the COVID-19 Workplace Risks. This is a working document that will be updated to reflect additional questions and clarifications, as necessary.

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## Scope & Application Of Temporary Rules

Unless otherwise noted, the provisions of this rule took effect November 16, 2020.

1. To whom does the temporary rule apply?

This temporary rule applies to all workplaces in Oregon subject to Oregon OSHA jurisdiction. The section on Exceptional Risk applies to those activities listed in subsection (1)(c) of the rule. Workplaces that fall under the Exceptional Risk are required to follow the General Requirement (Subsection 3) **and** those under Exceptional Risk (Subsection 4).

2. Is massage exceptional risk? What about hair salons? Estheticians?

Exceptional Risks workplaces are described in (1)(c) of the rule. Therapeutic massage, hair salons, and estheticians are considered to be personal service providers and are not covered by Section 4 (Exceptional Risk Workplace Requirements).

3. When pharmacies are giving injections or taking swabs is that direct patient care? Would a pharmacy be considered direct patient care when giving injections such as flu shots?

Such pharmacies activities would meet the definition of direct patient care and therefore, be covered by Section 3 and Section 4 (Exceptional Risk Workplace Requirements). However, only those direct patient care activities would be covered (meaning that they could be addressed narrowly as part of the overall plan), and the pharmacy operations generally would remain under Section 3 alone.

## General Questions About The Rules For All Workplaces (Subsection 3)

4. What are the “reasonable alternative methods” if they can’t stay six feet apart based on feasibility? How will feasibility be evaluated in an inspection?

Feasibility and reasonable alternatives are highly fact specific to the situation. For example, installing a barrier on an aerial lift that requires two employees in the lift to get the work done would be a reasonable alternative. In this example, doing the work with one person may not be feasible but reasonable alternate measures were provided to protect employees. Feasibility is defined in the rule (437-001-0744(2)(l)) and a portion is replicated here: 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.

5. What if the employees are just walking by each in an office to go to the printer and come within 6 feet of each other walking in the hallway? Is this a violation of the six feet social distance requirement?

The physical distancing requirements are related to the involved employee’s actual work activities and are not related to incidental and abbreviate contact such as described here. While permissible for employees to temporarily pass another individual within 6 feet to reach their work station or common area (for example, the bathroom), such interactions should be minimized and made as brief as possible

using directional hallway signs or other similar means. And, of course, everyone involved should be wearing a facial covering or mask already.

6. How often do employers have to replace face coverings?

Facial coverings must be replaced as frequently as necessary to ensure that the device(s) is/are functioning appropriately. Employers are required to ensure that facial coverings are used correctly and kept in a sanitary condition.

7. In open office spaces with multiple cubes, where employees can maintain physical distancing, do employees have to wear face coverings in their own cubes?

Physical distancing does not have any bearing on facial covering requirements in **indoor settings**. Unless the involved employee is working within a private individual workspace as defined by the Oregon Health Authority, all workers are required to wear facial coverings when inside. Facial coverings are not required in **outdoor** settings where physical distancing can be consistently assured.

**"Private individual workspace** means an indoor space within a public or private workplace used for work by one individual at a time that is enclosed on all sides with walls from floor to ceiling and with a closed door."

8. Are EPA Covid-19 approved disinfectants required? Section B appears to say soap and water are adequate for sanitation?

Unless otherwise specified, such as in subsection 4(d), employers are **not** required to use disinfectants, and may use soap and water or other non-EPA approved

cleaning chemicals to sanitize their work areas.

9. Can barriers still be used to reduce the six feet physical distancing such as a grocery store check stand? Or employee lunch room?

Barriers do not relieve the need for employees to maintain physical distancing during work and breaks. They can provide supplementary protection, especially in situations (such as check stands) where six-foot physical distancing may not be completely feasible, but they do not reduce the physical distancing requirement.

10. "The exposure risk assessment must involve participation and feedback from employees. This feedback may be achieved via a safety meeting, safety committee, supervisor,..." Is the intent that the supervisor can *represent* the input from employees, regardless of actual input from the employees they supervise?

No. A supervisor cannot represent input from employees. The intent of the employee feedback portion of this requirement is to see feedback from the employees in a safety meeting, safety committee, or through a discussion *with* a supervisor. The supervisor can obtain the feedback and pass it on, but it is not enough to have the supervisor simply provide it without consulting line employees.

11. If an employee that is pending test results comes to work before a positive test result - and other employees come into close contact with this person and also need to quarantine, are these paid for by the employer - workers comp? paid time off - sick leave? Does the employer have to pay for the tests for the other employees that came into close contact with the employee that came to work pending test results - or are these things still being handled by OHA.

Other than the scenarios outlined in the standard, this rule does not otherwise require employers to pay for the testing of exposed or affected employees. Employers should consult with their Workers Compensation Insurance Provider to understand what is and what is not covered under their individual policy regarding COVID-19 diagnostic testing.

12. Is it correct, employers not only must comply with this rule but also with anything that applies to them in the OHA?

Yes. Employers are required to comply with requirements (though not recommendations) found in applicable OHA documents, in addition to Oregon OSHA's COVID-19 rule.

13. Does the employee feedback on Exposure Risk Assessment and the Infection Control Plan need to be documented?

No, the rule does not require the feedback to be documented. However, doing so would be a good practice as it allows for opportunities to see the information that informed the decisions on the Risk Assessment and Infection Control Plan.

14. Why the 24 hour wait before cleaning areas where a confirmed COVID-19 person has been?

The purpose of this recommendation (not a requirement) is to protect the cleaning staff. The Centers for Disease Control & Prevention recommend waiting 24 hours to clean an area that is known to have been used by persons infected with COVID-19 to minimize the virus levels of the space.

15. Can respirator with an exhalation valve equipped with a filter medium that captures aerosols from the respirator be used as source control?

Yes, if the filter medium is installed to filter the exhalation of the wearer it can be used as both source control and respiratory protection.

16. Does the definition for Environmental Decontamination include decontamination at worksites with COVID-19 outbreak?

No, the rule reference to environmental decontamination is specific to the cleaning in healthcare settings or settings where aerosol generating procedures are conducted.

17. Is the company that provides decontamination services in non-healthcare settings considered to be an Exceptional Risk?

If the activity conducted does not fall under one of the elements from (1)(c), then they do not fall under Exceptional Risk. This is true, even if they are providing decontamination services in non-healthcare settings or in health care locations where aerosol generating process have not occurred.

## Section 2 Exceptional Risk Workplaces

18. What tasks performed by first aid responders meet the definition of “exceptional risk”?

The activities described in (1)(c) trigger the Exceptional Risk provisions. First aid responders providing basic first aid (including the provision of CPR) do not fall into this category. For example, if an employer has a paramedic onsite and provides care that intubates an employee before emergency services arrive that would fall under Exceptional Risk, as that is a aerosol generating procedure. But simple CPR would not be treated as triggering exceptional risk (in spite of WHO and CDC language noting the potential for aerosol generation).

19. In paragraph (4)(f)(B) - does upgrade existing ventilation system to MERV 13 rating mean, upgrade filter only or more than filter only?

The intent of the requirement is to address an upgrade in the filter alone.