



QUESTIONS AND ANSWERS

Regarding the Oregon Occupational Safety and Health Division's (Oregon OSHA) Education and Enforcement of Issues Related to COVID-19

Scope of Oregon OSHA COVID-19 Activity

What issues can Oregon OSHA address?

Oregon OSHA will address employee inquiries and complaints, and provide advice to employers related to any potential violation of existing Oregon OSHA rules or directives issued by Gov. Kate Brown if they involve potential workplace exposure. 3/27/2020

Under what authority can Oregon OSHA address public health issues for which Oregon OSHA has no rules?

All employers in Oregon are required by the Oregon Safe Employment Act (OSEA) to provide a safe and healthful workplace for their employees, regardless of the industry type or job function. Specifically, [OAR 437-001-0760\(1\)](#) – Rules for all Workplaces applies to all employers, including those in the construction industry and [OAR 437-001-0099\(2\)](#) – General Rules for agriculture.

In addition, Oregon OSHA has clear statutory authority to enforce other laws normally enforced by other agencies and other agencies' rules to the degree that they involve worker exposure to hazards. While we do not traditionally refer to the Governor's Office as an "agency" the term can be applied broadly, and Oregon OSHA believes that it has the authority to enforce the requirements of the executive order(s) as they relate to potential worker exposure to COVID-19. 4/3/2020

Will Oregon OSHA address concerns regarding price-gouging?

No, it is outside both our authority and our expertise. We have no ability to address public concerns about price gouging. The Oregon Department of Justice's (DOJ) consumer protection offices have the authority to address price gouging. Their website has information about it, including about the COVID-19 crisis, at <https://www.doj.state.or.us/consumer-protection/sales-scams-fraud/price-gouging/>. 3/27/2020

Will Oregon OSHA address concerns regarding existing or new sick leave laws?

No, enforcement of state law related to sick leave is the Oregon Bureau of Labor and Industries'(BOLI) responsibility. BOLI provides specific guidance and a sick leave Q&A in the context of the COVID-19 crisis at <https://www.oregon.gov/BOLI/WHD/OST/Pages/index.aspx>. 3/27/2020

If Oregon OSHA is enforcing the Governor's Executive Order, will we be taking complaints about individuals who do not stay in their home?

No. Our authority and involvement is limited to businesses and to the workplace. In fact, no state agencies will be questioning whether drivers have a valid reason to remain at home. The attached document from the Oregon State Police may be helpful if people have questions on this issue. Although the order is summarized in the phrase "Stay at Home; Stay Safe" the real point of the order is to avoid or at least minimize in-person contact outside the home. A driver alone in his or her car raises no concerns on that score for any law enforcement or regulatory body. 3/27/2020

OSP Enforcement FAQ

Will Oregon OSHA be addressing concerns about crowds on beaches or in parks or congregating in other locations?

No. Our authority and involvement is limited to businesses and to the workplace. If individuals have concerns about groups congregating they need to address those to local authorities using non-emergency contact numbers. Because such activities are very visible it is also likely that local law enforcement will become aware of them relatively quickly even without receiving a complaint or other notification. How they address them, of course, will be a question for local authorities, taking into account their available resources and other factors. 3/27/2020

Expectations of Businesses and other Employers

Are all non-essential businesses required to cease operations?

No. Although some businesses are required to close to the public, no businesses are required to entirely cease operations, so businesses may still expect employees to come to work. 3/27/2020

Which businesses must close their doors to the public?

Because the governor has determined that close personal contact in Paragraph 2 of Executive Order No. 20-12 (issued March 23, 2020) mandates the closure of the following:

- Amusement parks
- Aquariums
- Arcades
- Art galleries (to the extent they are open without appointment)
- Barber shops and hair salons
- Bowling alleys
- Cosmetic stores
- Dance studios
- Esthetician practices

Fraternal organization facilities
Furniture stores
Gyms and fitness studios (including climbing gyms)
Hookah bars
Indoor and outdoor malls (specifically, all portions of a retail complex containing stores and restaurants in a single area)
NOTE: This prohibition does not apply to mall operations that provide food, grocery, health care, medical, pharmacy or pet store services
Indoor party places (including jumping gyms and laser tag)
Jewelry shops and boutiques (unless they provide goods exclusively through pick-up or delivery service)
Medical spas, facial spas, day spas, and non-medical massage therapy services
Museums
Nail and tanning salons
Non-tribal card rooms
Skating rinks
Senior activity centers
Ski resorts
Social and private clubs
Tattoo/piercing parlors
Tennis clubs
Theaters
Yoga studios
Youth clubs

3/27/2020

Can such businesses continue to have employees work during the mandated closure?

Yes. Employees can perform work (cleaning, maintenance, inventory, etc.) inside the business while it is closed.

3/27/2020

Can we use PPE to allow employees to work in close contact?

Social Distancing and PPE

Oregon OSHA expects workplaces to comply with the governor's Executive Order No. 20-12 to maintain social distancing and meet Oregon occupational safety and health workplace standards. The CDC has provided guidance on wearing cloth face coverings in public to help slow COVID-19 transmission.

Employers are expected to maintain required social distancing in their workplaces following a process similar to the hierarchy of controls. First, employers should eliminate, substitute, or postpone non-critical tasks involving employee close contact. Then, use engineering controls, administrative controls, and safe work practices to maintain social distancing at the workplace. The use of face coverings or respirators alone can not be the singular solution for achieving the important effects of social

distancing. Keeping in line with the hierarchy of controls, PPE and cloth face coverings should be utilized as a last resort.

If these modifications are unable to achieve the social distancing requirements and employees must work in close contact in order to complete business-critical tasks, then PPE (such as successfully fitted respirators) should be used to supplement, but not replace, production and work practice modifications.

Most importantly, it is critical to emphasize that maintaining 6-foot social distancing remains important to slowing the spread of the virus. Employers must recognize that the use of PPE to circumvent social distancing requirements is a last resort option after all other feasible controls and safeguards have been implemented. PPE alone cannot be used by employers to comply with social distancing requirements.

Please keep in mind, there is a severe shortage of PPE in Oregon. It is imperative that healthcare facilities have an adequate supply of PPE to protect our healthcare providers on the front line of this emergency. Governor Brown issued Executive Order No. 20-10 to conserve PPE. EO No. 20-10, strongly encourages all industries (except healthcare) to cancel or postpone non-essential uses of PPE during the ongoing state of emergency, so that equipment can be conserved and redirected to the State's COVID-19 response via the Office of Emergency Management. All of those wishing to donate surplus PPE, should contact the PPE Coordinator listed in EO No. 20-10 at (971)-900-9952. 4/14/2020

What are Oregon OSHA's comments about cloth face coverings?

The CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies). This recommendation is particularly important in areas of significant community-based transmission.

As stated by the Oregon Health Authority, preventing transmission of the COVID-19 virus depends on physical distancing, frequently washing hands and surfaces, and staying home when you are sick. Personal Protective Equipment (PPE) (e.g. masks, gowns and gloves) protects healthcare personnel who are taking care of patients with COVID-19. A shortage of PPE has prompted many in the public to offer to make face coverings for healthcare personnel. In addition, the Centers for Disease Control and Prevention (CDC) released recommendations April 3, 2020, regarding cloth face coverings for the general public.

Here are Oregon Health Authority's recommendations:

[Oregon Guidance on Use of Homemade Masks or Face Coverings](#) by the Public to Prevent Spread of COVID-19: April 4, 2020

Strictly speaking, a cloth face covering is not personal protective equipment (PPE) in the traditional sense of how PPE is used, nor does it meet the design specifications for respiratory protection. The use

of cloth face coverings are encouraged from a public health perspective because they ensure the mask wearer covers their cough or sneeze by default.

It is critical to emphasize that maintaining 6-foot social distancing remains important to slowing the spread of the virus. CDC is additionally advising the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others. Cloth face coverings fashioned from household items or made at home from common materials at low cost can be used as an additional, voluntary public health measure.

This [CDC webpage](#) includes instructions for making a cloth face cover.

4/14/2020

What about restaurants and bars?

The operation of restaurants and bars was addressed by Executive Order No. 20-07 (issued March 17, 2020), which banned on-site consumption of food and drink at food establishments. Such organizations can continue to provide delivery and pickup (both curbside and interior) services.

3/27/2020

What about other retail businesses not listed in the answer above?

Paragraph 6 of Executive Order No. 20-12 prohibits all other retail businesses from operating unless the business designates an employee or officer to establish, implement, and enforce social distancing policies, consistent with guidance from the Oregon Health Authority (OHA). While many such businesses are operating in manners similar to those required of restaurants and bars, the Executive Order does not strictly require it. However, it certainly should be encouraged.

3/27/2020

What about grocery, health care, medical or pharmacy services?

Paragraph 8 of the executive order exempts such businesses from the requirements of Paragraph 6, although they are encouraged to comply with social distancing guidelines (most such businesses appear to have implemented procedures to minimize [although not to eliminate] contact between staff and customers even at the point of purchase).

3/27/2020

What about child care facilities?

Licensed childcare facilities must close from March 25, 2020, through April 28, 2020, unless that period is extended or terminated earlier by the governor. Notwithstanding this order, childcare facilities are allowed to remain open during this effective period if they meet requirements that address "stable" group size and prioritize the childcare needs of first responders, emergency workers, healthcare professionals, followed by critical operations staff and essential personnel, consistent with guidance provided by the Oregon Department of Education, Early Learning Division.

The governor has delegated authority to the Oregon Department of Education, Early Learning Division, to set forth exceptions to the rule allowing childcare facilities to remain open during the effective period, if it becomes necessary to do so. Oregon OSHA does not expect to address complaints about

child care facilities, and certainly has no authority to address the questions about prioritizing services.

3/27/2020

What about work in office environments?

Beginning March 25, 2020, Section 9 of Executive Order No. 20-12 prohibits businesses and non-profits from work in offices whenever telework or work-at-home options are available, in light of position duties, availability of teleworking equipment, and network adequacy.

3/27/2020

What about government offices?

Paragraphs 12 and 13 apply to the executive branch of state government. It requires all such offices to close to the public to the maximum extent possible and to provide services by phone and online during regular business hours. When contact with the public must take place, social distancing measures must be enforced to the maximum extent possible. It also requires teleworking to the maximum extent possible and requires a social distancing designee to the degree such telework options are not possible.

Paragraph 12 and 13 of the executive order do not apply to the state legislative or judicial branches, federal government, local government, or tribal governments, although they are encouraged to adhere to the same policies.

3/27/2020

Will Oregon OSHA take complaints related to the teleworking requirements?

Yes, if the employee is alleging worker exposure as a result of the failure to provide teleworking. But the evaluation of whether a business or non-profit is in violation will be a fact-specific and complex determination. If the employer has appointed an individual to establish, implement and enforce social distancing policies (as required by Section 10) and has made a reasonable effort to determine whether telework options are available, it is unlikely that we would be able to cite a violation of this provision.

3/27/2020

In several places the Executive Order refers to closing businesses for non-compliance. Will Oregon OSHA order such closures?

Oregon OSHA will close a business only in the event of a flagrant refusal to comply. Such an order should not be issued without approval from the Administrator (Michael Wood), the Deputy Administrator (Julie Love), or the Oregon OSHA Policy Manager (Renee Stapleton). If we do so, we will be relying on the red warning notice authority found in the Oregon Safe Employment Act.

3/27/2020

Do construction, agriculture, or non-retail establishments need to appoint someone to identify social distancing measures and enforce them?

Strictly speaking, no. But they should do so. For example, the Oregon Home Builders Association has recommended to all its members that they should follow the guidance in the governor's Executive Order as it relates to social distancing and its enforcement. 4/3/2020

Without a specific requirement, is there anything Oregon OSHA can do to address worker concerns in businesses not covered by the order?

Yes. We still have jurisdiction to address complaints alleging workers are at risk. And, while proving all the elements of a general duty violation (should it come to that) would be more difficult, we certainly would have no problem proving that COVID-19 is a recognized hazard. We may not be able to tell an employer in such a situation exactly what they must do, but we can reasonably advise them that the situation does require them to take specific measures to minimize the risk their employees face. 3/27/2020

What resources are available to help businesses and other employers?

There are several avenues to obtain information, including industry-specific guidance put out by a number of organizations.

Oregon OSHA has information available for employers at <https://osha.oregon.gov/Pages/re/covid-19.aspx>

In addition, both the CDC and federal OSHA have resources for businesses and employers:

CDC: <https://www.cdc.gov/coronavirus/2020-ncov/community/organizations/businesses-employers.html>

Federal OSHA: <https://www.osha.gov/Publications/OSHA3990.pdf>

At least one workers' compensation insurance carrier has dedicated financial assistance in relation to COVID-19. Check with your insurance carrier to see if they are offering assistance. 3/31/2020

Use of touchless thermometers (therm. guns) as part of an employer's screening protocol

CDC

Best practices for taking temperature - https://www.cdc.gov/coronavirus/2020-ncov/downloads/COVID-19_CAREKit_ENG.pdf

Oregon Health Authority's position on taking temperature:

[Oregon Guidance for Employers on COVID-19](#)

In circumstances where on-site temperature measurement is being implemented, temporal scanners (touch forehead), and no-touch methods might be used in order to reduce contact between screeners and potentially ill individuals. *However*, compared to oral or rectal measurement, no-touch thermometers have low sensitivity for temperatures greater than 38C. This means some people with fever will go undetected by temporal or no-touch methods.

Anyone who performs temperature screening should use appropriate personal protective equipment as described elsewhere (<https://www.cdc.gov/coronavirus/2020-ncov/community/correction-detention/guidance-correctional-detention.html>). Non-disposable thermometers should be appropriately sanitized between use and the person performing screening should adhere to infection control practices.

U.S. Equal Employment Opportunity Commission

Source: https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm

A.3. When may an ADA-covered employer take the body temperature of employees during the COVID-19 pandemic? (3/17/20)

Generally, measuring an employee's body temperature is a medical examination. Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions, employers may measure employees' body temperature. However, employers should be aware that some people with COVID-19 do not have a fever. 4/17/2020

When should employers NOT permit the use of cloth face coverings or voluntary respiratory protection (e.g. N95, dust masks) in the workplace?

There are two general circumstances where employers should not permit the use of cloth face coverings or voluntary respiratory protection in the workplace:

- 1) There is a medical concern that using such equipment could create a greater health risk to the employee user (e.g. asphyxiation, loss of consciousness, suffocation, lung failure).
- 2) The use of such respiratory equipment creates a severe hazard in it of itself (i.e. greater hazards that may be immediately injurious to life or health).

Mitigation of the spread of COVID-19 in the workplace is important; however, such hazard control efforts must not supersede task-specific hazard control methods required by an existing Oregon OSHA rule (e.g. asbestos) or create additional severe hazards for employees. An employer who is faced with protecting employees from COVID-19 transmission or protecting against a hazard that is immediately

injurious to life or health, should protect employees from the greater hazard first. However, this determination must be made by an employer on a case by case basis for a particular workplace.

Examples of greater hazards may include, but is not limited to:

- Electrocution
- Fire, burns, explosions, flame engulfment
- IDLH atmospheres (defined as, immediately dangerous to life or health means an atmospheric concentration of any toxic, corrosive, or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere)
- Amputation, evulsions, or loss of bone, cartilage, or eyes

Employers must [implement feasible controls](#) to curb the spread of COVID-19 in their workplace. Additionally, employers should delay, postpone, or minimize to the extent possible, those work operations that require employees to work within six feet of one another. As detail in previous Oregon OSHA COVID-19 guidance, PPE alone should not be used by employers to control against COVID-19 transmission in the workplace.

Oregon OSHA recommends that employers evaluate and document conditions in their workplace that may require employees to deviate from OHA or CDC guidance for COVID-19 that is related to PPE. If a greater hazard is created by the use of inadequate or non-compatible PPE or homemade equipment (e.g. cloth face masks, aprons, gowns) these items should not be used during that particular work task. In the absence of a greater hazard, employers should continue to promote the use of voluntary respiratory protection or cloth face coverings in accordance with current OHA or CDC guidelines.

Finally, employers should inform employees who are impacted by any changes to their workplace PPE policies and hazard control measures in response to COVID-19.

4/30/2020

Where can our medical facility request more PPE? We are not getting any medical-grade masks, gowns, or face shields.

Upon restarting non-emergent and elective procedures that require personal protective equipment (PPE) in medical and dental offices, where can clinics obtain PPE?

As Oregon restarts activities that have been temporarily halted, it is important be mindful of the balance between commerce and the health of Oregonians. Oregon's economy and it's public health function together to sustain each system.

As a public agency, Oregon OSHA does not recommend any provider of personal protective equipment (PPE). Oregon OSHA does not stockpile PPE, nor does the agency have access to separate PPE supply chains that are not already commercially available to the public. In addition to local retail and wholesale safety supply companies, employers may wish to inquire directly with manufacturers.

Medical or dental clinics that are in need of PPE for non-emergent and elective procedures, but could not find PPE from commercial vendors, should call their local public health authority according to county. The clinic needs to identify who they are and what they are seeking, and the county can advise them on the next steps.

[Directory for county public health authorities](#)

What evidence is there of an adequate supply of PPE for healthcare workers that will be performing non-emergent and elective medical and dental procedures that require PPE?

The Governor's Office stated on April 23, 2020 that Oregon's collection and conserving of PPE has been successful. In addition, a machine for cleaning and disinfecting masks is scheduled to be received soon. Furthermore, masks and gowns have been produced by local organizations and companies; many organizations and companies have donated PPE, and still more PPE has been procured by the State. The Governor's Office expects a large order of PPE, including N-95 respirators, to arrive over the upcoming week.

According to the press conference, there is a sense that the supply chain has been restored through a combination of production, procurement, and donations. PPE is being pushed out to Oregon counties for distribution. There is confidence that the supply chain is in much better shape and that dental and medical offices will be able to purchase PPE if needed.

What is the PPE inventory of the State?

Here is the [Oregon Office of Emergency Management website](#) that displays PPE received by the State and PPE shipped to Oregon Counties. This display tracks surgical masks, N-95 respirators, gowns, face shields, gloves, and ventilators.

What steps are required to restart non-emergent and elective medical and dental procedures that require PPE?

The Oregon Health Authority (OHA) has provided framework for healthcare partners in Oregon for restarting certain procedures. Internet links to these resources are provided below.

The [COVID-19 Healthcare Partner Resources webpage](#), provides resources for healthcare partners in Oregon.

Here are two documents with a framework for restarting certain procedures:

- [Framework for Restarting Non-Emergent and Elective Procedures in Hospitals and Ambulatory Surgical Centers](#) – April 23, 2020
- [Framework for Restarting Non-Emergent and Elective Procedures in Medical and Dental Offices](#) – April 23, 2020

Ongoing updates for healthcare providers

For ongoing updates, the [COVID-19 Information Sessions for Oregon Health Care Providers webpage](#) provides a link to a twice weekly webinar for all healthcare providers. 4/30/2020

Updated: March 27, 2020

- Document created

Updated: April 3, 2020

- Added Q&A Can we use PPE to allow employees to work in close contact?
- Added and OAR 437-001-0099(2) – General Rules for agriculture to Under what authority can Oregon OSHA address public health issues for which Oregon OSHA has no rules?
- Added , agriculture, or to Do construction, agriculture, or non-retail establishments need to appoint someone to identify social distancing measures and enforce them?

Updated: April 13, 2020

- Updated Can we use PPE to allow employees to work in close contact?
- Added What are Oregon OSHA's comments about cloth face coverings?

Updated: April 20, 2020

- Added - Use of touchless thermometers (therm. guns) as part of an employer's screening protocol

Updated: April 30, 2020

- Added - When should employers NOT permit the use of cloth face coverings or voluntary respiratory protection (e.g. N95, dust masks) in the workplace?
- Added - Where can our medical facility request more PPE? We are not getting any medical-grade masks, gowns, or face shields.