



Summary of Key Issues

Revision and Extension of Oregon COVID-19 Workplace Rules

1. **Time Frame for Repeal.** Oregon OSHA received considerable comment about the lack of a repeal date and/or the “permanent” nature of the rule. The bulk of these reflected a lack of understanding of the reason behind the “permanent” rulemaking, but a number of people (including several business stakeholders) specifically questioned the indefinite nature of the rule and the lack of a specific sunset date or automatic repeal trigger. Several suggested the rule should be repealed when the declared emergency ends. Worker advocates strongly objected to any automatic trigger. The final rule provides more detail regarding the criteria that will be used and commits to meetings with the Oregon OSHA Partnership Committee and both Rulemaking Advisory Committees beginning in July and at least every two months thereafter to discuss whether all or part of the rule can and should be repealed.
2. **Facial Coverings and Distancing.** The proposed rule continued the basic requirements related to facial coverings and distancing. These generated a great deal of opposition, although not from most organized employer groups. Worker advocates generally supported them. The final rule includes the requirements, although it removes most such references from the appendices and creating a base requirement for workplaces where the OHA guidance does not apply.
3. **The Rule Appendices.** The proposed rule left the temporary rule’s appendices intact with little change. This generated a variety of comments about various specific issues found in those appendices. In the final rule, the appendices have all been “scrubbed” to eliminate guidance not specific to worker protection, reducing the number of appendices by six and even reducing their overall length by more than 70 percent.
4. **The School Appendix.** The proposed rule included significant language from the Ready Schools, Safe Learners document in what was then Appendix A-13. This was the subject of extensive comment because of concerns related to the need to more fully reopen schools and the fear that the Oregon OSHA rule would become an obstacle to doing so. As part of the process described in #3 above, the final rule removes all language regarding cohorts, square footage limitations, etc. from the appendix.
5. **Continuity with Temporary Rule.** The proposed rule kept the Risk Assessment, Infection Control Plan, and Infection Control Training provisions identical so that actions completed under the temporary rule would not need to be revised or repeated. Employer groups acknowledged this, but noted the proposed rule did not say it explicitly. The final rule includes language expressly saying that these actions do not need to be repeated if they have been completed in compliance with the temporary rule.
6. **Face shields.** Face shields remained an option for source control in the proposed rule, although the language discouraging their use unless necessary has been strengthened. Workers advocates largely expressed concerns about their use and ask that the use of face shields alone be prohibited. The final rule includes the language as proposed.
7. **Transportation.** The proposed rule includes language encouraging employers to consider alternatives to transporting multiple persons where practical. Employer representatives read the language as being a stricter requirement than intended. The final rule makes clear that using multiple vehicles to transport multiple employees is not a requirement.
8. **Ventilation.** The ventilation requirements were modified slightly in the proposed rule but were largely unchanged, except for a requirement that employers with more than 10 employees attest that they are running their ventilation system in accordance with the rule. Many employers and their representatives dislike the additional language, while worker advocates continue to ask that we require ventilation systems to comply with ASHRAE. The final rule makes clear that the attestation is a declaration of intent and promises a sample form but otherwise includes the language as proposed.

9. **Removal and quarantine.** The proposed rule would require written notification of return rights when employees must quarantine. The rule also encourages, but does not require, employers to provide details about leave options. Worker advocates generally supported the new requirement and wanted the language about leave options to be required. Employer representatives generally objected to both the new requirement and, in particular, to the language about leave options (even though it is a recommendation, not a requirement). The final rule includes the language as proposed.
10. **Vaccination.** The proposed rule addresses vaccination with a requirement similar to the existing requirement related to testing and a discussion of declination language. Labor likes the requirement (because of the declination language, which they want employers to use if they decide on their own to require vaccines), while employers oppose it. OHA asked that the final rule not include the provision. The final rule includes no language addressing vaccinations.
11. **PPE Supply.** The proposed rule requires certain exceptional risk employers to have a written PPE supply and crisis management plan. The final rule includes the language as proposed.
12. **Respirators when Treating COVID-19 Cases.** The proposed rule requires health care employers to provide respirators to employees working with known or suspected COVID-19 positive patients unless such respirators are unavailable. Although some comments considered that to be inconsistent with CDC and OHA guidance, Oregon OSHA has determined that the language is actually consistent with current guidance. The final rule includes the language as proposed.
13. **Sanitation.** The proposed rule retained the sanitation language from the temporary rule, which was somewhat less burdensome than CDC guidance at the time. The CDC recently updated their guidance to significantly reduce the sanitation expectations. The rule as adopted reflects the most up-to-date CDC guidance.
14. **Exposure Records.** The proposed rule includes a note indicating that COVID-19 exposure records are covered by the existing record retention requirements. This note resulted in a strong reaction from employer representatives, including the suggestion that it effectively requires written notification when the rule itself does not do so. In reviewing the comments, Oregon OSHA reevaluated its own position in relation to the guidance provided by the rule. The rule as adopted clarifies the note to make it clear that the recordkeeping provisions may apply when written records are created.