



The Proposed “Permanent” COVID-19 Rule Compared to the Temporary Rule

On January 29, Oregon OSHA formally proposed a “permanent” COVID-19 rule to replace the temporary rule, which expires May 4, 2021. Based on discussions within both rulemaking advisory committees, the proposed rule is limited to addressing COVID-19 (and will be repealed when it is no longer necessary for that purpose). It is largely based on existing provisions of the temporary rule. This document provides a comparison between the existing temporary rule and the proposed rule on which Oregon OSHA is accepting public comment.

- 1. The Risk Assessment, Infection Control Plan, and Infection Control Training completed under the temporary rule would not need to be revised or repeated based on the adoption of the new rule.*

Those provisions of the rule addressing the Risk Assessment, Infection Control Plan, and Infection Control Training and unchanged from the temporary rule, to ensure that employers who have already satisfied those requirements will not need to change them simply because of the transition from the temporary to the permanent rule.

-
- 2. Face shields remain an option for source control, although the language discouraging their use unless necessary has been strengthened in the proposed rule.*

The proposed rule continues to reflect the recognition by Oregon OSHA (and the Oregon Health Authority) that face shields are not ideal but they should remain a compliant option for reasons related to practicality, accommodation needs, and user acceptance.

-
- 3. The proposed rule includes language encouraging employers to consider alternatives to transporting multiple persons.*

The proposed rule will require consideration of alternatives to transporting multiple persons to the extent practical but will not prohibit multiple employees in a single vehicle. It retains the temporary rule’s requirement that employees in a vehicle where others are not using source control must be provided with respiratory protection.

-
- 4. The ventilation requirements are modified slightly in the proposed rule but are 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.*

Like the current rule, the proposed rule does not require installation of new ventilation. It does include a requirement to check the system at least quarterly and a requirement that employers with more than 10 employees attest that they are running their ventilation system in accordance with the rule.

-
- 5. The proposed rule notes that COVID-19 exposure records are covered by the existing record retention requirements*

Although not a substantive change, the proposed rule provides a note clarifying that reports of exposure under the COVID-19 rule are exposure records covered by the existing rule governing the retention of medical and exposure records, which currently requires retention for 30 years.

-
- 6. The proposed rule would require written notification of return rights when employees must quarantine.*

The proposed rule requires written notification of return rights – the rights themselves are the same as in the current rule, but the written notification is new. The proposed rule would also encourage, but not require, employers to provide details about leave options.

7. The proposed rule addresses vaccination with a requirement similar to the existing requirement related to testing.

The proposed rule will include language requiring cooperation with public health authorities who ask to arrange for vaccination in the workplace. It also includes a note indicating that Oregon OSHA and OHA strongly encourage vaccination by anyone who has the option to do so as soon as they have the option to do so.

8. The proposed rule requires certain exceptional risk employers to have a written PPE supply and crisis management plan.

The details of the plan are not specified, and many of the affected employers are likely to already have such plans in place.

9. 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.

By requiring that such respirators be provided unless the employer can demonstrate that there is a genuine shortage and is working to resolve that shortage, the rule is consistent with recommendations from both OHA and the CDC that respirators be used in such situations unless they are unavailable.
