

## **Infectious Disease RAC Rulemaking Advisory Committee Meeting**

**Thursday, June 22, 2023**

Please send written comments to: [OSHA.rulemaking@dcbs.oregon.gov](mailto:OSHA.rulemaking@dcbs.oregon.gov)

**Attendance** (Oregon OSHA): Greig Lowell, Jennifer Stewart, Ted Bunch, Sarah Rew, Matt Kaiser, Renee Stapleton, Julie Love, Linda Pressnell, Dave McLaughlin, Lisa Appel, Regina Robb

**Attendees:** Jason Jantzi (SDAO), Andrea Seykora, Matt Calzia (ONA), Joe Angyus, Jenaya LeMay, Christa North, Becca Pierce (OHA), Kirsten Adams, Martha Sonato (OLC), Derek Sangston (OBI), Catie Theisen, (OR AFL-CIO), 15033516797

Meeting begins: 2:33 PM

**Welcome:** Greig Lowell, Policy Manager

Good afternoon, thank you for joining us at this COVID-19 RAC. Introductions for OSHA staff in conference room, as follows: Dave McLaughlin, Standards & Technical Manager; Renee Stapleton, Administrator; and Jennifer Stewart, Technical Specialist. Joining virtually are Julie Love, Deputy Administrator; Matt Kaiser, Legislative Coordinator and Policy Analyst who will be leading meeting; and Linda Pressnell, Technical Specialist; Lisa Appel, Rules Coordinator; and Ted Bunch, Technical Specialist.

**Matt Kaiser:** Welcome and thank you for those of you who have been a part of the various iterations of the COVID-19 rules, especially those who participated all the way back to the original November 2020 rulemaking, when we first adopted an emergency temporary rule to where we are at now.

The purpose of today's meeting is to hear from stakeholders to see how the suspended requirements are going, how are they impacting you and organization? Are there any modifications that need to be made to the work clothing rules in Divisions 2, 3, 4 that were temporarily adopted? They allow workers to wear masks if they choose but don't require employers to pay for them. So, I will go ahead and pause. Does anyone have questions in regards to the impact was of the COVID-19 rule suspension, or concerns about a full repeal of that standard in Division 1 or in 4 for Employer-provided Labor Housing, or making changes in work clothing in Division 2, 3 or 4? Please let us know if you have questions or thoughts about those changes.

**Renee Stapleton:** Not everyone in this meeting has been with us for the whole duration of the COVID-19 rulemakings, so temporary process is different in the repeal versus rescind universe. The rule changes we put in place in March can only be in place for 180 days, which means the changes will die near the end of September. So if we don't do something with it, all the COVID-19 rules and materials will come back as they were

in February 2023. So we need to work through this process so we can move past COVID-19. I recognize there are people who say COVID still exists, and it absolutely does but we have ways to deal with COVID-19 exposures and risks in other rule sets. So, this is a conversation to repeal COVID-19, and we have a way to deal with COVID-19 in other processes. When we did this back in March we realized there was a hole in work clothing, so that is what we want to talk about today. So we added a rule that if workers chose to wear a face covering they could; if the employer mandated them they would have to pay for it. Other rules cover the employer having to pay for COVID-19 testing if they require it. This rule change ensures workers can wear masks if they want and covers that gap.

Everything we did in March, we want to do permanently. If we do nothing, everything comes back. Thanks to all of those on the team who have been with us, but I did want to review temporary rulemaking for those who are newer to the team.

**Matt Kaiser:** Thanks, let's take questions now. Not seeing anything in the chat or hand-raised function. Those on phone please press \*6 to unmute. Hearing nothing, let's go over text of changes.

Essentially language is nearly identical in Division 2, 3 and 4, just Division 4 has different formatting. New provisions say: "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." And there is an explanatory note.

"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."

This language was added to supplement the removal face covering from the COVID-19 rule in March. We would like to hear from folks on this rule change that ensures face covering access remains an option for Oregon workers; as long as it doesn't expose an employee to a hazard. We would like to hear from you on this, and also if there was an unidentified fiscal impact of this rule change. *We are not hearing anything verbally or in the chat.* We will return to the agenda.

**Greig Lowell:** Matt, We do have one note in the chat from Jason Jantzi with Special Districts saying those changes are acceptable.

**Matt Kaiser:** Thanks. To review, this temporarily rulemaking will expire after 180 days. To make this permanent we need to go through the formal rulemaking process. The first step will be to file a notice of proposed rulemaking through the Secretary of State's office, and the actual changes will be posted in Oregon Bulletin on the first of July. We will then begin a public comment period, and we foresee that the period will go into early August. This is an additional opportunity for folks to make comments, and this is a mechanism for us to gather public input. Are there any questions related to that

proposed timeline? We will also have an official public hearing at the end of July. All the information will be posted through the Secretary of State and on OSHA's website.

Website for the rulemaking is:

<https://osha.oregon.gov/rules/advisory/infectiousdisease/Pages/default.aspx>

Ok, we will open this meeting up. If anyone has anything they would like to discuss related to the rule changes, please unmute and come on camera to share anything you would like to discuss. *No response from attendees.*

**Renee Stapleton:** Note that Federal OSHA has been talking about a COVID rule for quite some time. It may be worth mentioning that if that happens, we will assess whatever happens on a federal level. In the event it comes up, we would evaluate the federal rule change just like we would any other federal rule change. In the meantime, we will proceed with these proposed changes.

**Matt Kaiser:** Yes, the way Oregon OSHA operates as a state plan, whenever federal OSHA makes a rule change Oregon OSHA is required to adopt as least as effective. It does not have to be identical. We would go through all the typical mechanisms for evaluation. We have not heard any indication that they plan to proceed, its been discussed for a long time.

**Greig Lowell:** No additional comments in the chat.

**Matt Kaiser:** Thank you, whether you are new or have been around since the beginning. This has been a rewarding experience and demonstrated the value of stakeholder input. And the importance of having targeted discussion given the variety of industries you all represent. Thank you for you participation throughout the COVID-19 process.

**Renee Stapleton:** I want to thank you too. Its been a very long, hard and tedious process. We have asked a lot of you and this group. You have been fantastic, and we could not have done it without your wonderful hard work. It's been a long haul, we have done approximately 16 rule changes related to COVID-19 since March of 2020. It certainly was not our plan at the beginning, and we hope that we can get back to our own regulatory agenda. We hope to see you all in those advisory committee meetings.

**Matt Kaiser:** Absolutely, we hope that you continue to engage with us on those topics that are of interest to you or the interests you represent. Thank you.

**Greig Lowell:** Thanks, we will end the meeting now and thanks again for your participation.

**Meeting ends at 2:52 pm**