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## **Oregon Becomes Third State to Adopt COVID-19-Related Workplace Health and Safety Standard**

On Nov. 6, 2020, the Oregon Occupational Safety and Health agency (Oregon OSHA) announced an emergency temporary standard designed to protect workers in Oregon from exposure to Coronavirus Disease 2019 (COVID-19) (Oregon Emergency Standard). The Oregon Emergency Standard will be effective Nov. 16.

In the absence of the federal Occupational Safety and Health Administration (federal OSHA) creating and implementing a temporary emergency workplace safety standard for addressing COVID-19, state occupational safety and health agencies, like Oregon OSHA, have been filling the void. Indeed, Oregon is the third state to implement a temporary emergency standard to mitigate the spread of COVID-19 in the workplace, joining [Michigan](#) and [Virginia](#). Other states (like New Jersey) have relied on executive orders from governors to mitigate the spread of COVID-19. Though federal OSHA has not issued a temporary emergency standard, it has completed nearly 200 worksite inspections related to COVID-19 and issued nearly \$2.5 million in monetary penalties for violations of existing safety and health standards.

Oregon's Emergency Standard will remain in effect until May 4, 2021. Unlike the Michigan and Virginia temporary emergency standards, Oregon's Emergency Standard requires the employer to solicit feedback and input from employees regarding certain elements of an employer's COVID-19 mitigation plans.

Oregon's Emergency Standard also includes numerous appendices with mandatory guidelines for specific industries and activities, including but not limited to restaurants, bars, brewpubs, wineries, retail stores,

markets, construction operations, entertainment facilities, fitness organizations, and public and private K-12 schools.

The Oregon Emergency Standard requires all employers to implement certain measures immediately, while other measures are not required for a few weeks or months.

Under the Oregon Emergency Standard, employers must immediately do the following:

- Ensure work activities and workflow are designed to keep employees six feet apart, unless doing so is not feasible;
- Require employees to wear face coverings while at the workplace;
- Provide face coverings to employees at no cost to workers;
- Regularly clean and sanitizes common areas and work equipment;
  - The Emergency Standard requires that cleaning must occur at least every 24 hours for workplaces occupied less than 12 hours a day; workplaces occupied more than 12 hours a day must be cleaned every 8 hours.
- Post a COVID-19 poster provided by Oregon OSHA in a conspicuous location in the workplace;
- Establish a process for notifying affected employees within 24 hours of the employer becoming aware of the presence of an infectious individual in the workplace that they have had work-related contact with an individual who has tested positive for COVID-19;
- Permit employees ordered to quarantine by a medical provider or local official to return to their previous duties, if available, without any adverse action as a result of their COVID-19 quarantine.
- By **Dec. 7, 2020**, conduct a COVID-19 exposure risk assessment for the job tasks at a workplace. The assessment must include, among other things, anticipated working distances between employees, workplace modifications that can achieve physical distancing, and sanitation measures. Employers with ten or more employees or workplaces defined as “exceptional risk” must record their assessment in writing. Employers must give employees the opportunity to provide feedback. The Emergency Standard details the specific information that must be included in an employer’s risk assessment.
- By **Dec. 7, 2020**, establish and implement an infection control plan based on the risk factors associated with the job tasks. Employers with ten or more employees or workplaces defined as “exceptional risk” must record their control plan in writing. The Emergency Standard details the information that must be included in an employer’s infection control plan. Like the exposure risk assessment, employers must give employees the opportunity to provide feedback on the infection control plan.

The Oregon Emergency Standard also requires employers to complete certain tasks over the next few weeks:

- By **Dec. 21, 2020**, employers must provide workers with information and training regarding COVID-19. The training must include information regarding social distancing, face coverings, sanitation requirements, COVID-19 signs and symptoms, and COVID-19 infection notification processes.
- By **Jan. 6, 2021**, employers must optimize the amount of outside air circulated through its existing heating, ventilation, and air conditioning system, to the extent the system can do so when operating as designed, whenever employees are in the workplace. Importantly, however, this obligation does not

require employers to install new ventilation equipment. Rather, it merely requires employers to ensure air filters are maintained and replaced as necessary and that all intake ports that provide outside air to systems are cleaned, maintained, and cleared of debris that may impact the system's performance.

The Oregon Emergency Standard also includes specific rules for workplaces at exceptional risk, which include workplaces with direct patient care in a health care setting and residential or assisted living and in-home care services.

## Conclusion

Oregon's Emergency Standard is the most comprehensive COVID-19 workplace safety standard to date and the only standard that specifically requires employers to obtain employee suggestions and feedback on their COVID-19 mitigation plans before implementation. Though some employers in Oregon may already be implementing some of the Emergency Standard requirements and controls, employers should carefully review the Emergency Standard, especially requirements for the risk exposure assessment and infection control plan, to ensure full compliance. Oregon employers that fail to comply with the Emergency Standard are subject to fines up to \$12,675 for Serious violations and \$126,749 for willful violations.

*\* Greenberg Traurig is not licensed to practice law in Oregon and does not advise on Oregon law. Specific Oregon law questions and Oregon legal compliance issues will be referred to lawyers licensed to practice law in Oregon.*

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