



# Oregon

Kate Brown, Governor

**Department of Consumer and Business Services**

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May 31, 2020

Representative Paul Holvey, Chair  
House Interim Committee on Business & Labor

*Sent via e-mail to [Jan.Nordlund@oregonlegislature.gov](mailto:Jan.Nordlund@oregonlegislature.gov)*

Dear Chair Holvey:

Thank you for the opportunity to speak before the committee last Wednesday. I have enclosed an updated version of the PowerPoint I used that reflects both an updated dataset and the shift from “Stay Home/Stay Safe” to “Reopening a Strong & Safe Oregon” as we all try to move forward in the face of this unprecedented health emergency.

In addition, I have included answers on the attachment to the questions I was provided before the hearing that may not be clearly answered by the presentation itself. I also would draw your attention to the PDFs we provided before the hearing, which include much of the basic information about our enforcement activity during normal times.

I would be happy to respond to any additional questions the committee may have.

Sincerely,

Michael Wood, CSP  
Administrator, Oregon OSHA  
Department of Consumer & Business Services  
(971)707-0996 (mobile voice and text)

Attachment

cc: Theresa VanWinkle, DCBS

**Oregon OSHA Responses to Questions from House Business and Labor Committee  
May 31, 2020**

*Q: As hospitals resume nonurgent care, how is OSHA working with hospital workers to ensure CCD guidelines around proper use of PPE are being followed and worker and patient safety is not being compromised?*

We have participated in discussions with the Oregon Health Authority about a range of issues related to worker safety, including the appropriate use of PPE, much of which remains in limited supply (although not as scarce as it was at the peak of the crisis). In general, we defer to the guidelines from the Centers for Disease Control unless OHA has provided Oregon-specific guidance. While we do not explicitly address issues of patient safety because they fall outside our authority, we are in regular discussions with OHA about how best to protect both workers and patients throughout the various facets of the health care industry.

*Q: How many hospital-based PPE complaints have you received since nonurgent care resumed?*

Since May 1, 2020, Oregon OSHA has received a total of 46 complaints from health care employers. Of those, 8 involve hospitals, surgical centers, or similar facilities. Five of those included concerns about respirators, procedure masks or other PPE.

*Q: What guidance are you giving employers regarding social distancing and PPE?*

We are relying upon guidance provided by the Centers for Disease Control and the Oregon Health Authority. Although we reinforce that guidance in our discussions and contacts with employers (and we are consulted by OHA in much of the guidance they provide, particularly in relation to PPE), we are not providing separate guidance of our own.

*Q: How many COVID related worker complaints have you received since early March?*

The available data break down is in the revised PowerPoint presentation. We were also asked how many complaints come in by telephone or using our online form – we do not readily capture that data. However, the majority of the complaints we received came in using the on-line form, with the second largest group coming in by telephone. We also receive a number of complaints by e-mail (which we do not encourage, but we do accept those that come in) and through the federal OSHA complaint system, which is available nationwide.

*Q: How many languages is your online form able to accept complaints in?*

Although the form can accept any language in which the writer chooses to communicate, the form's instructions are presented in only English and Spanish.

*Q: How do you handle complaints that come in in languages other than English? How many languages is your intake staff able to communicate in?*

We can handle an intake in Spanish with relative ease. We have very limited capacity for a few other languages within our staff, but we can readily access translators and interpreters if needed.

*Q: What is your process for following up on complaints?*

We evaluate the complaint based on the clarity and significance of the issues raised. This evaluation is completed initially upon intake by either a field enforcement manager or a senior enforcement officer. It is generally confirmed by a manager. In the case of COVID-19 complaints, because we have needed to dramatically increase the number of enforcement officers conducting complaint reviews, all complaints are being reviewed, at least briefly, by the Administrator before we confirm that the complaint is closed and no additional action will be taken.

*Q: How many result in connecting with the employer on site?*

As noted in the PowerPoint, we have opened fewer than three dozen inspections to date. However, we also have conducted (not counting "spot checks" – which include visits to the site but no contact with the employer – we have done more than 4,650 of those, nearly 700 of which were specifically evaluating whether a complaint response appeared accurate).

*Q: How many result in connecting with the employer via email or telephone?*

Almost exactly one-third result in a contact by telephone, usually with an e-mail follow-up (that is occurring more frequently now than it was in March, when we were evaluating COVID-19 complaints using “standard” complaint criteria that did not take into account certain unique aspects of the crisis.

A slightly larger number have been handled with a letter (again, those are more likely to be handled with a phone call now than was the case in March).

A few dozen have been identified for inspection (roughly twice the number we have conducted so far).

The remainder (fewer than one-third) result in no additional action. However, that number of somewhat deceptive because one of the primary reasons complaints do not receive additional action is because other complainants have already raised the issue (and our system cannot tie ongoing action to more than one complaint). In addition, a number allege conduct that is plainly not a violation or that falls clearly outside Oregon OSHA’s jurisdiction (for example, a number of complaints involve the federal government or the tribes – and a few complaints even involve sites outside the state of Oregon).

*Q: What happens when an employer is non-responsive?*

While a response does not guarantee that an enforcement visit will not occur, a failure to respond almost certainly guarantees that one will occur. In at least two cases, employers have been inspected because they failed to respond and we ultimately concluded that their COVID-19 actions were satisfactory – but the inspection identified and cited Safety Committee violations.

*Q: What is the follow up with the worker who made the complaint if not made anonymously?*

In the overwhelming majority of cases, if the complainant has provided useable contact information, we will, provide the complainant with the employer’s response and give them an opportunity to comment before determining that we are satisfied with the response.

*Q: Can you explain how the agency is handling complaints about social distancing related to the employers ability to feasibly comply*

We have viewed the 6-foot social distance expectation as a target that the employer must meet when and where possible. If it is not feasible for an employer to do so, then we evaluate whether the employer has taken reasonable steps to implement those measures that are feasible. Unless an employer is open in clear violation of the Governor’s Executive Order, Oregon OSHA would never tell an employer that it has to cease operations.

*Q: What’s the maximum penalty that OR OSHA has levied to an employer who had violated OHA guidance?*

The two highest penalties we have issued totaled \$14,000 and \$13,900 respectively. In both cases, we classified the violations as willful because we encountered businesses who were clearly operating in violation of the express language of Executive Order 20-12, and who continued to operate well after our initial contact with them. Once a violation has been classified as willful, the minimum penalty is \$8,900 and the maximum penalty is \$126,749. As noted on the PowerPoint, we have also issued a citation with a total penalty of \$100, which is the minimum penalty that can be assessed for a non-willful, non-repeat violation.

*Q: Is there a mechanism for the employer to lower that fine?*

Oregon OSHA penalties can be lowered as the result of an appeal, either by a settlement or by the appeals process itself.

*Q: Is there currently an infectious disease standard at OR OSHA?*

We do not have a specific infectious disease standard. However, as noted in the PowerPoint, several of our general obligation standards apply, including the requirement for employers to implement controls to address recognized health hazards.