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OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

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FILING CAPTION: Adopting rules related to COVID-19 to implement the Governor's Executive Orders.

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RULES:

333-003-1001, 333-003-1011, 333-003-1021, 333-003-1031, 333-003-1041, 333-003-3000, 333-003-3010, 333-003-3020, 333-003-3030, 333-003-3040

ADOPT: 333-003-1001

RULE TITLE: COVID-19 Related Requirements: Definitions

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Adds definitions for OHA, LPHA and physical distancing officer.

RULE TEXT:

The following definitions apply to OAR 333-003-1000 to 333-003-3040:

- (1) "Authority" means the Oregon Health Authority.
- (2) "Local public health authority" has the meaning given that term in ORS 431.003.
- (3) "Physical distancing officer" or "physical distancing monitor" means an individual designated to establish, implement, and enforce physical distancing requirements.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441, ORS 624.020, ORS 624.355, ORS 624.415, ORS 624.041

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010

ADOPT: 333-003-1011

RULE TITLE: COVID-19 Related Requirements: Enforcement of Governor's Executive Orders and State Guidance

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Authorizes civil penalties for violation of the Governor's Executive Orders or Authority guidance.

RULE TEXT:

(1) The Authority or a local public health authority may impose civil penalties up to \$500 per day per violation on any person for violating any provision of:

(a) Any Governor's Executive Order that the Governor has designated as a public health law as defined in ORS 431A.005;

(b) Authority guidance implementing such an Executive Order; or

(c) OAR 333-003-1000 to OAR 333-003-3040.

(2) Any civil penalties imposed by the Authority shall be imposed in accordance with ORS chapter 183.745. Civil penalties imposed by the local public health authority shall be imposed in a manner substantially equivalent to ORS chapter 183.745.

(3) Civil penalties may not be imposed under this rule if the Executive Order alleged to have been violated is not in effect at the time the Notice of Imposition of Civil Penalties is issued.

Note: Copies of the Executive Orders are available at: <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441, ORS 431A.010, ORS 624.415, ORS 624.020, ORS 624.041, ORS 624.355, ORS 624.415

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010

ADOPT: 333-003-1021

RULE TITLE: COVID-19 Related Requirements: Food and Drink Establishments

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Prohibits on-premises unless a food service establishment is in Phase I, II, or III of reopening or if the Governor's Executive Orders are rescinded. Prohibits customer self-service, requires six-foot physical distancing and requires designation of a physical distancing officer. Exempt certain facilities.

RULE TEXT:

(1) Restaurants, bars, taverns, brew pubs, wine bars, cafes, food courts, coffee shops, clubs, mobile food units, food cart pods, or other similar establishments that offer food or drink may not offer or allow on-premises consumption of food or drink unless permitted as described in section (2) of this rule.

(a) This prohibition includes, but is not limited to:

(A) Both indoor and outdoor areas of an establishment.

(B) Continental breakfast operations, buffets, or other self-service operations.

(b) Off-premises consumption is permitted if the establishment:

(A) Implements physical distancing protocols of at least six feet between customers while ordering, waiting, in line, and at any time on the premises.

(B) Implements physical distancing protocols of at least six feet between staff whenever possible.

(C) Complies with ORS chapter 471 and any rules adopted thereunder when offering or selling alcoholic beverages for off-premises consumption.

(D) Designates a physical distancing officer.

(E) Complies with all applicable Authority guidance, including but not limited to Statewide Mask, Face Shield, Face Covering Guidance.

(c) Continental breakfast operations, buffets, and other self-service operations may only offer food or drink for off-premises consumption if they comply with subsection (1)(b) of this rule and only staff are permitted to prepare and package food or drinks for off-premises consumption.

(2) Restaurants, bars, taverns, brew pubs, wine bars, cafes, food courts, coffeeshops, clubs, mobile food units, food cart pods, or other similar establishments offering food or drink operating in a county that has been approved for Phase I, II, or III reopening may offer or allow on-premises consumption of food or drink and must comply with Authority guidance, including but not limited to Statewide Mask, Face Shield, Face Covering Guidance.

(3) Continental breakfast operations, buffets, and other self-service operations may offer or allow consumer self-service operations in a county that has been approved for Phase I, II or III reopening if permitted and in compliance with Authority guidance, including but not limited to Statewide Mask, Face Shield, Face Covering Guidance.

(4) Health care facilities, child care facilities, workplaces, government buildings, emergency response facilities, school-based food programs, and shelter and meal programs serving vulnerable populations are exempt from section (1) of this rule.

(5) The prohibition and requirements of this rule do not apply if the Governor has terminated the Executive Order underlying the prohibition or requirement.

STATUTORY/OTHER AUTHORITY: ORS 401.168, ORS 413.042, ORS 433.441

STATUTES/OTHER IMPLEMENTED: ORS 401.990, ORS 431A.005, ORS 431A.010, ORS 431A.015

ADOPT: 333-003-1031

RULE TITLE: COVID-19 Related Requirements: Disciplinary Action for Violation of an Executive Order or Authority Guidance

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Establishes that a violation of OAR 333-003-1020 is a violation of the Food Sanitation Rules and may result in enforcement action.

RULE TEXT:

- (1) Violation of OAR 333-003-1020 constitutes a violation of the Oregon Food Sanitation Rules OAR 333-150-0000.
- (2) Violation of OAR 333-003-1020 may serve as the basis for the Authority, or its designee, to take any enforcement or licensing action permitted under ORS chapter 624 against any food establishment as defined in OAR 333-150-0000(4)(q) regulated by the Authority, including but not limited to:
 - (a) Restaurants;
 - (b) Bed and breakfast facilities;
 - (c) Mobile food units;
 - (d) Commissaries;
 - (e) Warehouses;
 - (f) Vending machines;
 - (g) Traveler's accommodations; or
 - (h) Organizational camps.
- (3) Any enforcement or licensing action taken under this rule shall be taken in accordance with ORS chapter 183.
- (4) Enforcement or licensing action may not be taken under this rule if the Governor has terminated the Executive Order underlying the prohibition or requirement that serves as the basis for the violation.

STATUTORY/OTHER AUTHORITY: ORS 433.441, ORS 413.042

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 624.020, ORS 624.041, ORS 624.355, ORS 624.415

ADOPT: 333-003-1041

RULE TITLE: COVID-19 Related Requirements: Designation of Physical Distancing Officer

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Requires that business or facilities designate a physical distancing officer and report the name and contact information to the Authority on request.

RULE TEXT:

(1) Businesses or facilities required to designate a physical distancing officer or physical distancing monitor pursuant to a Governor's Executive Order, Authority guidance implementing a Governor's Executive Order, or by rule shall immediately provide the name and contact information of the physical distancing officer or monitor to the Authority, a local public health authority, or any other state agency with responsibility for enforcement, upon request.

(2) This rule shall be suspended when the Governor lifts the physical distancing requirements for businesses and facilities.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 431A.015, ORS 624.020, ORS 624.041, ORS 624.355, ORS 624.415

ADOPT: 333-003-3000

REPEAL: Temporary 333-003-3000 from PH 55-2020

RULE TITLE: Definitions

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Establishes definitions to implement the Governor's Executive Orders relating to Covid-19 in public pools and tourist facilities.

RULE TEXT:

The following definitions apply to OAR 333-003-3000 to 333-003-3040:

(1) "Subject public pools and spas" includes:

- (a) Public swimming pools as defined in OAR 333-060-0015(19);
- (b) Public spa pools as defined in OAR 333-062-0015(14);
- (c) Public wading pools as defined in OAR 333-060-0015(20);
- (d) Spray pools as defined in OAR 333-060-0015(20)(a); and
- (e) Interactive fountains as defined in OAR 333-060-0015(20)(b).

(2) "Subject tourist facilities" include:

- (a) Hostels as defined in OAR 333-029-0015(5);
- (b) Organizational camps as defined in ORS 446.310(7);
- (c) Recreation parks as defined in OAR 333-031-0002(12); and
- (d) Travelers' accommodations as defined in OAR 333-029-0015(10).

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 446.310 – 446.350, ORS 448.005 – 448.100

ADOPT: 333-003-3010

REPEAL: Temporary 333-003-3010 from PH 55-2020

RULE TITLE: Requirements for Tourist Facilities During Declared Emergency

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Requires tourist facilities to comply with all applicable requirements and prohibitions imposed by the Governor's Executive Orders and Authority guidance.

RULE TEXT:

(1) Subject tourist facilities must comply with all applicable requirements and prohibitions imposed by a Governor's Executive Order that is designated as a public health law as defined in ORS 431A.005 and any provision of Authority guidance implementing such an Executive Order.

(2) Compliance with a Governor's Executive Order designated as a public health law as described in subsection (1) includes, but is not limited to:

(a) Operating a facility or portion of a facility required by an Executive Order or Authority guidance to be closed;

(b) Failing to comply with the requirements of Authority guidance implementing an Executive Order, including but not limited to:

(A) Failing to implement protocols or take other action necessary to maintain physical distancing of six (6) feet between individuals when and as required by Authority guidance;

(B) Failing to comply with restrictions on party size when and as required by Authority guidance;

(C) Failing to implement Statewide Mask, Face Shield, Face Covering Guidance or Oregon General Guidance for Employers on COVID-19 when and as required by Authority guidance;

(D) Failing to clean and disinfect in accordance with Authority guidance;

(E) Failing to prohibit activities or close facilities when and in accordance with Authority guidance; and

(F) Failing to post signs required by Authority guidance.

(3) The requirements of this rule do not apply if the Governor has terminated the Executive Order that imposes the requirement or prohibition or terminated the Executive Order underlying the Authority guidance.

Note: Copies of Executive Orders are available at: <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

Copies of Authority guidance are available at: <https://govstatus.egov.com/OR-OHA-COVID-19>

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 431A.015, ORS 446.310, ORS 446.330, ORS 446.340, ORS 446.349

ADOPT: 333-003-3020

REPEAL: Temporary 333-003-3020 from PH 55-2020

RULE TITLE: Disciplinary Action or Civil Penalties for Tourist Facilities During Declared Emergency

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Authorizes license denial, suspension or revocation for tourist facilities that fail to comply with applicable requirements of the Governor's Executive Orders or Authority guidance.

RULE TEXT:

- (1) The Authority, or its designee, may deny, suspend, or revoke the license of a subject tourist facility for failing to comply with any applicable requirement imposed by a Governor's Executive Order that is designated as a public health law as defined in ORS 431A.005 and any provision of Authority guidance implementing such an Executive Order.
- (2) Any action taken under this rule shall be taken in accordance with ORS chapter 183.
- (3) No action under this rule shall be taken if the Governor has terminated the Executive Order underlying the prohibition or requirement that serves at the basis for the violation.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441, ORS 446.310 - 446.350

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 446.310, ORS 446.324, ORS 446.340, ORS 446.347 – 446.349

ADOPT: 333-003-3030

REPEAL: Temporary 333-003-3030 from PH 55-2020

RULE TITLE: Requirements for Subject Public Pools and Spas During Declared Emergency

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Requires public pools to comply with all applicable requirements and prohibitions imposed by the Governor's Executive Orders and Authority guidance.

RULE TEXT:

(1) Subject public pools and spas must comply with all applicable requirements and prohibitions imposed by a Governor's Executive Order that is designated as a public health law as defined in ORS 431A.005 and any provision of Authority guidance implementing such an Executive Order.

(2) Compliance with a Governor's Executive Order designated as a public health law as described in subsection (1) includes, but is not limited to:

(a) Operating a facility or portion of a facility required by an Executive Order or Authority guidance to be closed;

(b) Failing to comply with the requirements of Authority guidance implementing an Executive Order, including but not limited to:

(A) Failing to limit the number of individuals inside the premises or implement other protocols necessary to maintain physical distancing of six (6) feet between individuals when and as required by Authority guidance;

(B) Failing to implement Statewide Mask, Face Shield, Face Covering Guidance or Oregon General Guidance for Employers on COVID-19 when and as required by Authority guidance;

(C) Failing to designate a physical distancing monitor in accordance with Authority guidance;

(D) Failing to clean and disinfect in accordance with Authority guidance; and

(E) Failing to prohibit employees or visitors with symptoms associated with COVID-19 from entering premises in accordance with Authority guidance.

(3) The requirements of this rule do not apply if the Governor has terminated the Executive Order that imposes the requirement or prohibition or terminated the Executive Order underlying the Authority guidance.

Note: Copies of Executive Orders are available at: <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

Copies of Authority guidance are available at: <https://govstatus.egov.com/OR-OHA-COVID-19>

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 431A.015, ORS 448.011

ADOPT: 333-003-3040

REPEAL: Temporary 333-003-3040 from PH 55-2020

RULE TITLE: Disciplinary Action for Subject Public Pools and Spas During a Declared Emergency

NOTICE FILED DATE: 08/01/2020

RULE SUMMARY: Authorizes license denial, suspension or revocation for public pools that fail to comply with applicable requirements of the Governor's Executive Orders or Authority guidance.

RULE TEXT:

(1) The Authority, or its designee, may deny, suspend, or revoke the license of a subject pool or spa for failing to comply with any applicable requirements imposed by a Governor's Executive Order that is designated as a public health law as defined in ORS 431A.005, any provision of Authority guidance implementing such an Executive Order, or any provision of OAR 333-003-3030.

(2) Any action taken under this rule shall be taken in accordance with ORS chapter 183.

(3) No action under this rule shall be taken if the Governor has terminated the Executive Order underlying the prohibition or requirement that serves at the basis for the violation.

Note: Copies of Executive Orders and Authority guidance are available on the Oregon Health Authority's webpage: <https://govstatus.egov.com/OR-OHA-COVID-19>

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.441

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 448.005, ORS 448.011, ORS 448.051