

**MEMORANDUM OF UNDERSTANDING REGARDING  
ENFORCEMENT OF GOVERNOR'S EXECUTIVE ORDERS 20-07 and 20-12  
for Establishments Offering Food or Drink**

**I. BACKGROUND**

On March 8, 2020, the Governor issued Executive Order (EO) 20-03, declaring a state of emergency due to the public health threat posed by the novel infectious coronavirus disease (COVID-19). On March 17, the Governor issued EO 20-07 prohibiting restaurants, bars, taverns and other similar establishments from offering or allowing on-premises consumption of food or drink. Establishments may offer food or drink for off-premises consumption but must implement social distancing protocols for customers and employees. On March 23, 2020, the Governor issued EO 20-12, a stay-at-home order that requires, among other things, certain retail businesses to designate an employee or officer to establish, implement and enforce social distancing policies. EOs 20-03, 20-07, and 20-12 are incorporated herein by reference.

The regulatory authority of the Oregon Health Authority (OHA), the Oregon Department of Agriculture (ODA), and the Oregon Department of Consumer and Business Services, Occupational Safety and Health Division (OR-OSHA) may include the same establishments offering food or drink and subject to the above EOs. Coordination among the three agencies is necessary to effectively utilize state resources and limit unnecessary duplication or expense when implementing EOs 20-07 and 20-12.

EOs 20-07 and 20-12 are public health laws that may be enforced by OHA or local public health administrators pursuant to ORS 431A.010. OHA adopted temporary rules OAR 333-003-1000 to 333-003-1040 to implement the EOs. These temporary rules also provide an enforcement mechanism for issuing civil penalties for violation of EOs 20-07 or 20-12.

OHA, ODA, and OR-OSHA enter into the following Agreement coordinating response to complaints of noncompliance with the Governor's Executive Orders 20-07 and 20-12 and enforcement as appropriate for establishments offering food or drink licensed by OHA or ODA.

**II. AGREEMENT**

**A. Roles and Authorities**

1. **ODA:** ODA is responsible for licensing and inspecting retail food establishments, food processing, and food storage. ORS 616.695 – 616.755 and OAR Chapter 603 division 25. ODA is also responsible for regulating bakeries for sanitation. ORS 625.010–625.990 and OAR Chapter 603 division 25.
2. **OHA:** OHA is responsible licensing and inspecting restaurants, temporary restaurants, bed and breakfast establishments, commissaries, mobile units, and vending machines. ORS 624. 010 to 624.430 and OAR Chapter 333, divisions 150 and 157. OHA has the

authority to enforce EO 20-07 and 20-12 as a public health law pursuant to ORS 431A.010.

3. **OR-OSHA:** OR-OSHA is responsible for enforcing occupational safety and health laws and regulations to ensure as far as possible safe and healthful working conditions for every working person in Oregon. ORS Chapter 654 and OAR Chapter 437.
4. **2016 OHA/ODA MOU:** To avoid unnecessary duplication and expense, OHA and ODA have maintained a memorandum of understanding about combination facilities that have both food service and food retailing or processing operations so that one agency inspects, licenses and is the primary regulator of the facility. The most recent Memorandum of Understanding for Combination Establishments dated June 23, 2016 is hereby incorporated by reference (2016 OHA/ODA MOU).

#### **B. Definitions.**

1. "ODA Licensees" means all facilities or operations licensed by ODA in accordance with the 2016 OHA/ODA MOU.
2. "OHA Licensees" means all facilities and operations licensed by OHA in accordance with the 2016 OHA/ODA MOU.
3. "OR-OSHA's online complaint form" is OR-OSHA's online form for submitting complaints.
4. "Potential EO violations" means potential violations or other concerns regarding compliance with EO 20-07 or 20-12 requirements for social distancing or prohibiting on-site consumption of food.

#### **C. ODA Responsibilities and Implementation**

1. **General Complaint Intake:**
  - a. ODA shall intake all complaints received by ODA concerning potential EO violations regarding ODA Licensees or OHA Licensees. ODA shall gather and document information including the name of the licensee, location, description of the potential EO violation, dates/times of the alleged violation or conduct, any employee or employer involvement, and the complainant's name and contact information if provided.
  - b. ODA shall respond to complaints unrelated to potential EO violations in its normal course.

**2. Complaint Referral**

- a. Using OR-OSHA's online complaint form, ODA shall refer all complaint information regarding potential EO violations by ODA Licensees or OHA Licensees to OR-OSHA for:
  - i. Complaints from employees related to occupational safety and health; and
  - ii. Complaints concerning or involving employees or workplaces related to occupational safety and health;
- b. For complaints regarding OHA Licensees that do not concern or involve occupational safety & health, ODA shall refer to:
  - i. The local public health authority food service licensing program for the county where the establishment operates. This is the preferred option. Local public health authority contract information is available in Attachment A; or
  - ii. OHA at (971) 673-3283 or [david.c.martin@state.or.us](mailto:david.c.martin@state.or.us).

**3. ODA Complaint Response:**

- a. For complaints regarding ODA Licensees that do not concern or involve occupational safety & health, ODA shall communicate with and educate ODA Licensees about compliance with EO 20-07 and 20-12.
- b. If the ODA Licensee fails to address the concern or ODA otherwise believes additional action is necessary, ODA may refer the complaint and all necessary information to:
  - i. The local public health authority food service licensing program for the county where the establishment operates. This is the preferred option. Local public health authority contract information is available in Attachment A; or
  - ii. OHA at (971) 673-3283 or [david.c.martin@state.or.us](mailto:david.c.martin@state.or.us).

**D. OHA Responsibilities and Implementation**

**1. General Complaint Intake:**

- a. OHA, or its designee, shall intake all complaints received by OHA concerning potential EO violations regarding OHA Licensees or ODA Licensees. OHA shall gather and document information including the name of the licensee, location, description of the potential violation, dates/times of the alleged violation or conduct, any employee or employer involvement, and the complainant's name and contact information if provided.
- b. OHA shall respond to complaints unrelated to potential EO violations in its normal course.

**2. Complaint Referral:**

- a. Using OR-OSHA's online complaint form, OHA shall refer all complaint information regarding potential EO violations by OHA Licensees or ODA Licensees to OR-OSHA for:
  - i. Complaints from employees related to occupational safety and health; and

- ii. Complaints concerning or involving employees or workplaces related to occupational safety and health;
- b. For complaints regarding ODA Licensees that do not concern or involve related to occupational safety and health, OHA shall refer to ODA at <https://oda.direct/FSComplaint> or by email at [fsd-clerical@oda.state.or.us](mailto:fsd-clerical@oda.state.or.us).

**3. Complaint Response:**

- a. OHA shall review complaints and complaint information received from ODA about ODA Licensees for possible enforcement action under temporary rules OAR -003-1000 through 333-003-1040 or ORS 431A.010.
- b. OHA shall notify ODA of any enforcement action taken against an ODA Licensee and the outcome.

**4. Local Public Health Authority Communications.** Pursuant to OHA's authority and relationships with local public health authorities (LPHAs), OHA may communicate and inform LPHAs about the division of responsibilities and implementation among OHA, ODA, and OR-OSHA described in this Memorandum of Understanding. OHA may encourage LPHAs to:

- a. Intake all complaints received by the LPHA concerning potential EO violations regarding OHA Licensees or ODA Licensees. Gather and document information including the name of the licensee, location, description of the potential violation, dates/times of the alleged violation or conduct, any employee or employer involvement, and the complainant's name and contact information if provided.
- b. Using OR-OSHA's online complaint form, intake, document and refer complaints regarding potential EO violations by OHA Licensees or ODA Licensees to OR-OSHA for:
  - i. Complaints from employees related to occupational safety and health; and
  - ii. Complaints concerning or involving employees or workplaces related to occupational safety and health;
- c. Refer complainants regarding ODA Licensees that do not concern or involve employees to ODA at <https://oda.direct/FSComplaint> or by email at [fsd-clerical@oda.state.or.us](mailto:fsd-clerical@oda.state.or.us); and
- d. Respond to complaints unrelated to potential EO violations in its normal course.

**E. OR-OSHA Responsibilities and Implementation**

- 1. **Complaints received from ODA or OHA.** OR-OSHA shall review complaints and complaint information received from ODA or OHA for appropriate response including education or possible enforcement action under OAR chapter 437.
- 2. **Complaints outside of OR-OSHA's jurisdiction.** OR-OSHA may receive complaints that are outside of its jurisdiction because they do not involve occupational safety and health or worker safety. If OR-OSHA receives a complaint outside of OR-OSHA's

jurisdiction regarding OHA or ODA Licensees, OR-OSHA shall undertake best efforts to refer the complaint to OHA or ODA.

a. OR-OSHA shall refer complaints regarding OHA Licensees (restaurants and other facilities that provide food for immediate consumption) to:

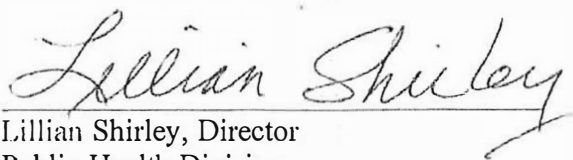
- i. The local public health authority food service licensing program for the county where the establishment operates. This is the preferred option. Local public health authority contract information is available in Attachment A; or
- ii. OHA at (971) 673-3283 or [david.c.martin@state.or.us](mailto:david.c.martin@state.or.us).

b. OR-OSHA shall refer complaints about ODA Licensees (retail grocery stores and processing plants) to ODA at <https://oda.direct/FSComplaint> or by email at [fsd-clerical@oda.state.or.us](mailto:fsd-clerical@oda.state.or.us).

3. **OR-OSHA Contact:** ODA and OHA can contact OR-OSHA regarding this Memorandum of Understanding at 971-719-6708 or [renee.m.stapleton@oregon.gov](mailto:renee.m.stapleton@oregon.gov).

#### F. General Terms


1. Nothing in this Memorandum of Understanding prevents an agency from taking appropriate enforcement action within its jurisdiction, even if a complaint has been referred to another agency or another agency is taking enforcement action for the same conduct.
2. **Effective Date of Agreement.** This Memorandum of Understanding shall become effective upon signature by the Oregon Health Authority, Public Health Division Director, the Director of the Oregon Department of Agriculture, and the Oregon Department of Consumer and Business Services, Occupational Safety and Health Division Administrator and shall remain in effect until the Governors Order 20-07 and 20-12 are rescinded or expire. This Memorandum of Understanding may be terminated by any agency with written notice.
3. This Memorandum of Understanding may be executed in one or more multiple counterparts, including facsimile, scanned, and electronically transmitted counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

  
Lillian Shirley, Director  
Public Health Division  
Oregon Health Authority

5-7-2020  
DATE

  
for Alexis Taylor, Director  
Oregon Department of Agriculture

5/8/2020  
DATE

  
Michael Wood, Administrator  
Oregon Occupational Safety and Health

5/15/2020  
DATE