



Operator Guidance for Resolving Disagreements Over Interpretation of Licensed Food, Pool or Lodging Establishment Rules

A disagreement over interpretation or application of rules results when an operator believes that their inspector or plan reviewer has made an interpretation that is inconsistent with decisions made by another county Environmental Health Department or Oregon Health Authority (OHA) guidelines and procedures.

The goal of the OHA is that all rules are uniformly, reasonably, and properly applied. Given that every licensed establishment has unique features, and no two situations (or inspectors) are exactly alike, the task of maintaining uniformity can at times be challenging.

Differences in interpretation will inevitably occur and when they do, OHA will strive to resolve them to the satisfaction and understanding of all parties. The Food, Pool, and Lodging Health & Safety Program is committed to considering all facts and information and weighing all sides of an issue before deciding.

State Role:

OHA's Food, Pool, and Lodging Health & Safety Program provides oversight to ensure uniform and fair application of the rules and guidelines governing licensed food service, public pools and tourist facilities in Oregon.

Local Role:

The Local Public Health Authority (LPHA) licenses and inspects licensed facilities in their district. These environmental health departments are also responsible for any enforcement activities with regards to their licensed facilities.

Process Steps:

An operator should follow these steps when they believe an interpretation of the rules is not consistent:

1) Attempt to resolve the problem locally:

- a) Inform the environmental health supervisor that you think the rule is not being properly interpreted or uniformly applied. You can find your local Environmental Health Office online at:
<https://www.oregon.gov/oha/PH/ProviderPartnerResources/LocalHealthDepartmentResources/Pages/lhd.aspx>
- b) Explain why you think it is not properly applied; provide specific examples of other similar interpretations in your county or other counties.
- c) Ask for resolution by a specific date that can be mutually agreed upon.
- d) Tell the county how you would like to receive their response (i.e., written or verbal, formal or informal).
- e) Submit all this information and any requests in writing via email.

2) If an Oregon Health Authority interpretation or ruling is called for:

- a) Notify the county supervisor if there is a disagreement with their decision and intent to petition the State Food, Pool, and Lodging Health & Safety Program (FPLHS) for a ruling.
- b) Contact FPLHS via email at food.safety@oha.oregon.gov, pool.safety@oha.oregon.gov or lodging.safety@oha.oregon.gov, depending on the licensed facility type to present your request for the State's interpretation on the matter.
- c) FPLHS will gather information as necessary. This may include talking with the operator and inspector, making a site visit, or consulting with outside experts.
- d) FPLHS will evaluate all the information gathered, decide on a path forward and provide a written explanation to the operator and the county. The decision will be binding on all parties.
- e) FPLHS will keep a record of all such rulings and share them with other counties when appropriate. The State will periodically review the record of rulings to determine needs for training, policy development, or rule revisions.