

216-RICR-50-15-7

## TITLE 216 – DEPARTMENT OF HEALTH

### CHAPTER 50 – ENVIRONMENTAL HEALTH

#### SUBCHAPTER 15 - HEALTHY ENVIRONMENT

##### PART 7– Safe Activities By Covered Entities During the COVID-19 Emergency

### 7.1 Authority

- A. These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 23-1-1, 23-1-17, and 42-35-2.10 and to Executive Order 20-32, for the purpose of establishing certain criteria for safe activity by and at covered entities in Rhode Island during the COVID-19 state of emergency in the interest of the public health.
- B. These regulations are intended to supplement and not replace COVID-19 related regulations promulgated by other State agencies and departments.
- C. In accordance with R.I. Gen. Laws § 42-35-2.10, these regulations shall remain in effect until no later than September 5, 2020, unless renewed for a period not exceeding sixty (60) days.

### 7.2 Definitions

- A. Wherever used in this Part, the terms listed below shall be construed in the following manner:
  - 1. "Act" means R.I. Gen. Laws § 23-1.
  - 2. "Business" means a person, firm, corporation, partnership, association, receiver or trustee in bankruptcy, having one or more individuals, including oneself, in service.
  - 3. "CDC" means the Centers for Disease Control and Prevention.
  - 4. "Civil penalty" or "penalty" or "fine" means a means a monetary sum assessed by the Director in response to a violation of, or a failure to comply with, these regulations.
  - 5. "Cloth face covering" means a protective article that covers the wearer's mouth and nose.

6. "Covered entity" means any person, business, state agency, political subdivision of the State, non-profit organization, school, religious institution, public or private park or beach, or campground.
7. "COVID-19" means the disease caused by the novel coronavirus SARS-CoV-2.
8. "COVID-19 symptoms" means the occurrence of any of the symptoms of COVID-19, as set forth in CDC guidance, when they develop over a period of hours to days and cannot be explained by allergies or other non-infectious disease. Such symptoms include, among others, sweating, chills, repeated shaking with chills, muscle pain, body aches or other symptoms consistent with fever, temperature measured above 100.4 °F, cough, congestion, sore throat, shortness of breath, headache, or new loss of taste or smell.
9. "Department" means the Rhode Island Department of Health.
10. "Director" means the Director of the Rhode Island Department of Health or his or her agents or subordinates to whom the Director has delegated the powers and duties vested in the Director by these regulations.
11. "Establishment" means a physical location operated in whole or part by any Covered Entity or any place of public gathering. For purposes of this definition, a residential dwelling, or any portion of an establishment used exclusively as a residential dwelling (such as an apartment in an apartment building), is not deemed an establishment.
12. "Health care facilities" means any person or entity that provides in-person health care services or whose establishment is the location for in-person health-care services.
13. "Hot spot" means a location identified by the Department where there is (a) a significantly elevated number of COVID-19 suspect or positive cases or (b) a significant number or severe violations of these regulations.
14. "Social distancing" means the practice of keeping space between oneself and others when outside of the home in order to restrict the spread of infectious disease. The practice of social distancing, also known as physical distancing, involves:
  - a. staying at least six (6) feet (two (2) meters) from people outside the same household unless separated by a physical barrier that

prevents individuals from having direct contact and contact with any droplets from another individual's coughing, sneezing or talking;

- b. not gathering in groups;
- c. staying out of crowded places; and
- d. avoiding mass gatherings.

### **7.3 Universal Practices**

- A. All individuals in public or in an establishment shall be required to maintain social distancing at all times, to the extent feasible.
  - 1. When social distancing is not feasible, individuals should minimize the time of exposure to the extent possible.
- B. All individuals in public or in an establishment shall wear a cloth face covering unless social distancing can be maintained easily and continuously.
- C. Employers must arrange for cloth face coverings or materials for the making of such face coverings for each employee at no expense to the employee. Nothing shall prevent an employee from fashioning his or her own cloth face covering or voluntarily providing and wearing other equivalent or more protective face coverings (such as N95 respirators and surgical masks). This subsection will remain in effect unless and until the Occupational Safety and Health Administration (OSHA) regulates the use of cloth face coverings.
- D. Exceptions
  - 1. Cloth face coverings are not required for individuals who are required by their employers or by state or federal law to wear other more protective respiratory protection (such as N95 respirators and surgical masks).
  - 2. Cloth face coverings are not required for:
    - a. Anyone for whom use of such face covering would damage his or her physical or mental health; or
    - b. Anyone who is developmentally unable to use a cloth face covering, including young children who may not be able to effectively wear a cloth face covering; or
    - c. When a face covering would directly inhibit an activity of daily living (e.g. eating); or

- d. When a face covering would itself negatively impact the safety of an individual or lead to an increased risk of harm to others (e.g. near open flames); or
- e. In outdoor settings when people can easily and continuously maintain at least six (6) feet of distance from other people.

## **7.4 Rules for Establishments**

- A. For the duration of the state of emergency caused by COVID-19, covered entities that have establishments that they wish to open and/or remain open, must take the following steps to limit the spread of COVID-19:
  - 1. Every covered entity (other than an individual who is not acting as a sole proprietorship) shall develop and maintain a written plan for the safe operation of its establishment(s) with regard to COVID-19 during the state of emergency and make this plan available to the Department upon request. This plan must include procedures that meet, at a minimum, the requirements of these regulations and applicable guidance issued by the Department. The plan must address the following elements:
    - a. Social distancing, including additional measures to be taken in high-traffic, communal, or other areas where social distancing is not feasible;
    - b. wearing of cloth face coverings;
    - c. procedures for cleaning and decontamination of surfaces;
    - d. procedures for minimizing access to the establishment by COVID-19 positive or symptomatic individuals;
    - e. procedures for responding to a positive case or outbreak; and
    - f. coordinating with the Department regarding any potential hot spot investigation, including the designation of a point of contact who will work with the Department on testing, contact tracing, case investigation, isolation and quarantine follow up.
  - 2. Each covered entity (other than an individual who is not acting as a sole proprietorship) shall implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason.
    - a. Such screening shall include, at a minimum:

- (1) visual assessment, self-screening, or a written questionnaire, or a combination of any of these screening methods regarding COVID-19 symptoms and contact in the last fourteen (14) days with other individuals who are COVID-19 positive or who have COVID-19 symptoms; and
- (2) at all entrances to an establishment, notice that all individuals entering must be screened or self-screened, and to not enter if they are COVID-19 positive, have COVID-19 symptoms, or have had close contact in the last fourteen (14) days with an individual who at the time had COVID-19. Samples of screening criteria for entrants can be found here:

[Health.ri.gov/forms/screening/COVID-19](https://health.ri.gov/forms/screening/COVID-19)

and here in Spanish:

[Health.ri.gov/forms/screening/COVID-19/Spanish](https://health.ri.gov/forms/screening/COVID-19/Spanish)

- b. If an individual is identified as having COVID-19 symptoms, the covered entity shall deny access to that individual unless (i) the establishment is a health care facility with other access requirements or limitations or (ii) the individual is a resident in a multi-unit residential establishment.
3. Each covered entity shall instruct any person entering an establishment to wear cloth face coverings except when social distancing from others in the establishment is easily, continuously, and measurably maintained or § 7.3(D)(2) of this Part applies. Without limitation of the foregoing, individuals must wear a cloth face covering when at an entrance, exit and common areas of any establishment including, but not limited to: check-in, registration, reception, waiting areas, hallways, corridors, bathrooms, elevators, and stairways.
    - a. If any employee refuses to wear a cloth face covering when required by these regulations and such individual is not otherwise exempt from the requirements pursuant to § 7.3(D)(2) of this Part, a covered entity shall deny access to the establishment. Nothing in this Part shall require a store or other business to refuse entry to a customer not wearing a face covering.
  4. All covered entities shall ensure the placement of posters or signs at entry to its establishments educating any individual at the establishment concerning entry screening, required social distancing, use of cloth face coverings, and other subjects as provided in guidance issued by the

Department. Copies of acceptable posters can be found here:  
<https://health.ri.gov/>

5. All covered entities shall ensure that their establishments have their restrooms open, and that they have running water and are stocked with hand soap. If access to restrooms or running water is limited, the establishment shall ensure ready access to hand sanitizer at all times.
6. All covered entities shall ensure the performance of environmental cleaning of their establishments once per day. In addition, commonly touched surfaces, such as shared workstations, elevator buttons, door handles and railings should be cleaned in accordance with CDC guidance for specific industries, found here: <https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>. Covered entities shall use, and have readily available to service providers, cleaning/disinfecting products designed to clean/disinfect the surfaces they are cleaning/disinfecting and shall use the products in the manner intended.
7. All covered entities shall maintain records documenting the date, time, location and procedures for the cleaning activities required in § 7.4(A)(6) of this Part.
8. All covered entities operating establishments that offer outdoor dining shall ensure the following, in addition to compliance with all other applicable laws and regulations:
  - a. That individual parties for outdoor dining do not exceed five (5) people;
  - b. That outdoor dining tables be separated by at least eight (8) feet; provided, however, that tables may be closer together if, in compliance with applicable fire codes, tables can be separated from each other by physical, non-porous, inflexible barriers (such as plexiglass or a wall) of sufficient height to separate seated customers;
  - c. That, in any event, outdoor dining capacity be limited to no more than twenty (20) seated tables at any given time; and
  - d. —That consumption of food and beverages is permitted and that the use of hookahs or waterpipes is prohibited at all times.
9. In the event the Department identifies a hot spot, the affected covered entity shall cooperate fully with the Department to restrict the further spread of COVID-19 within an affected establishment and/or the

community at large, which cooperation shall, at minimum, include providing access to all the covered entity's records required by these regulations.

109. Each covered entity will cooperate with the Department on testing, contact tracing, case investigation, isolation and quarantine follow-up matters relating to the covered entity's establishment.

110. ~~\_\_\_\_\_~~ All covered entities must also comply with all applicable federal, state and local laws and regulations governing safety and health in their establishments.

#### B. Exceptions

1. Sections 7.4(A)(2), (3), (5) and (6) of this Part do not apply to any outdoor facility, unless that facility has staff at all points of entry.
2. Sections 7.4(A)(2) and (5) of this Part do not apply to public bus transportation.

### **7.5 Closure of Establishments**

- A. If the Director determines that there exists a hot spot which requires immediate action to protect the health, welfare, or safety of the public or any member of the public, the Director may issue an immediate compliance order, as provided for in R.I. Gen. Laws § 23-1-21, effecting the closure of the establishment until such time as the violation has been remedied, to the satisfaction of the Director. Such remedy shall be in addition to any other penalty that may be prescribed by law.

### **7.6 Enforcement**

#### A. Inspections

1. The Department and its authorized representatives may enter and inspect any establishment's premises in a reasonable manner, including, without limitation, all equipment, materials, containers, records, processes and controls, in order to ascertain compliance with these regulations and the Act.
2. The Department may coordinate with law enforcement and/or other state or federal agencies to conduct inspections hereunder.

#### B. Penalties

1. The Department may take any combination of the following actions against an establishment for violation of these regulations and/or the Act:
  - a. Issue a compliance order;
  - b. If immediate action to protect the health, welfare, or safety of the public or any member of the public is required, issue an immediate compliance order pursuant to § 7.5(A) of this Part;
  - c. Levy a civil penalty in accordance with § 7.6(C) of this Part; and/or
  - d. Take any other action authorized by these regulations, the Act or other applicable law.

C. Civil Penalties

1. The Department adopts the following schedule of civil penalties with respect to violations of these regulations.

Violation	Civil Penalty per Violation. Each day's failure to comply will constitute a separate offense.
Any violation	A. The civil penalty for a first violation shall be not more than one hundred dollars (\$100). B. The civil penalty for a second violation shall be not more than two hundred fifty dollars (\$250). C. The civil penalty for a third or subsequent violation shall be not more than five hundred dollars (\$500).
Any violation of a compliance order	A. The civil penalty for a first violation shall be not more than two hundred dollars (\$200). B. The civil penalty for a second violation shall be not more than five hundred dollars (\$500). C. The civil penalty for a third or subsequent violation shall be not more than one thousand (\$1,000).

- D. All hearings and reviews required under the provisions of R.I. Gen. Laws § 23-1 shall be held in accordance with the provisions of the Act and the rules and regulations regarding Practices and Procedures Before the Department of Health (Part 10-05-4 of this Title) and Access to Public Records (Part 10-05-1 of this Title).
- E. Administrative action including civil penalties imposed by the Department on account of violations hereunder are in addition to any criminal penalties provided for under applicable law.

## **7.7. Severability**

- A. If any provision of these regulations, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of the regulations which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable.

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