DEPARTMENT OF REVENUE

Liquor Enforcement Division

COLORADO LIQUOR RULES

1 CCR 203-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Regulation 47-002. Repealed.

Regulation 47-004. Fermented Malt Beverages - Possession of Alcohol Liquors.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to prohibit possession and consumption of malt, vinous, or spirituous liquors on a fermented malt beverage licensee's licensed premises.

A. Except as provided by subsection 44-3-107(2), C.R.S., no supplier, wholesaler, or retailer licensed pursuant to article 4 of title 44, C.R.S., shall allow the sale, possession, or consumption of malt, vinous, or spirituous liquor on its licensed premises.

B. Except as provided in subsection 44-3-107(2), C.R.S., no person shall possess or consume malt, vinous, or spirituous liquor on the licensed premises of a supplier, wholesaler, or retailer licensed pursuant to article 4 of title 44, C.R.S.

Regulation 47-006. Repealed.

Regulation 47-008. Fermented Malt Beverages - Limitations of License.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(a)(I)(A), C.R.S. The purpose of this regulation is to differentiate fermented malt beverage licenses for on-premises consumption from off-premises consumption and clarify what activities are permitted under each license type.

A. Except as provided by subsection 44-3-107(2), C.R.S., no person licensed for on-premises consumption pursuant to section 44-4-107(1)(b), C.R.S., shall sell fermented malt beverages in sealed containers, or permit the removal from the licensed premises of any fermented malt beverages in either sealed or unsealed containers.

B. Except as provided by subsection 44-3-901(6)(k)(II)(B), C.R.S., no person licensed for off-premises consumption pursuant to section 44-4-107(1)(a), C.R.S., shall sell any open container of fermented malt beverage, or permit the consumption of any fermented malt beverages within the licensed premises.

Regulation 47-009 Fermented Malt Beverage Off-Premises Licenses Distance Requirement.

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), and 44-3-202(2)(a)(I)(O), C.R.S. The purpose of this regulation is to clarify the availability of the exception to the statutory distance requirement as it applies to fermented malt beverage off-premises licenses.

A. The exceptions to the five hundred (500) foot distance restriction set forth in subsection 44-3-301(12)(a.5)(II)(A) and (B), C.R.S., shall apply only if the structure for which a building permit or certificate of occupancy has been timely applied for or received was intended for use as a fermented malt beverage retailer licensed premises at the time of submitting the application for the building permit or certificate of occupancy.

Regulation 47-010. Items Approved for Sale in Fermented Malt Beverage Off-Premises Licenses.

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), and 44-3-202(2)(a)(I)(O), C.R.S. The purpose of this regulation is to define how applicable licensees must report and demonstrate compliance concerning this specific statutory requirement.

A. To demonstrate compliance with subsection 44-4-107(3), C.R.S., if applicable, the applicant or licensee must affirm on its new and annual renewal application that the license derives or will derive at least twenty (20) percent of its gross annual revenues from total sales from the sale of food items for consumption off the premises. The exceptions to the foregoing requirement, set forth in subsections 44-4-107(3)(d)(I) and (II), C.R.S., shall apply only if the structure for which a building permit or certificate of occupancy has been applied for or received was intended for use as a fermented malt beverage retailer licensed premises at the time of submitting the application for a building permit or certificate of occupancy.

B. Nothing within this regulation shall limit the authority of the state licensing authority to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify this affirmation or compliance with this statutory requirement.

Regulation 47-100. Definitions.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to ensure consistent application and interpretation of common terms within the relevant articles.

A. “Licensed, licensee, and licensed premises” mean persons or premises issued a license or permit under Articles 3, Articles 4 and Article 5 of Title 44.

B. “Manufacturer” means a Colorado licensed brewery, winery, limited winery, distillery, vintner’s restaurant, distillery pub or brew pub as defined by C.R.S. 44-4-104 and 44-3-103.

C. “Nonresident manufacturer” means a Colorado licensee that manufactures malt liquor or fermented malt beverages outside the state of Colorado and has been issued a Brewer's Notice by the Alcohol and Tobacco Tax and Trade Bureau.

D. “On-site product sales promotion” means a sales promotion, featuring a particular brand of alcohol beverage, that is conducted on a retailer's licensed premises by an alcohol beverage supplier. On-site product sales promotion may include drink specials, product sampling and the giveaway of consumer goods.

E. “Sponsored event” means an event supported in whole or in part by a licensed supplier that is conducted at a retail licensed establishment.

F. “Supplier” means a Colorado licensed brewery, winery, distillery, brew pub, distillery pub, vintner’s restaurant, limited winery, nonresident manufacturer, wholesaler or importer of alcohol beverages.

G. "Retailer" or an entity "licensed to sell at retail" means those persons licensed pursuant to sections 44-3-401(1)(h) – (t) and (v – w), C.R.S., and section 44-4-104(1)(c), C.R.S. to sell alcohol beverages to the end consumer.

H. "Unreasonable noise" means a level of noise that violates local noise ordinance standards, or where no local noise ordinance standard exists, a level of noise that would violate section 25-12-103, C.R.S.

I. "Wholesaler" means those entities authorized to sell alcohol beverages at wholesale to licensed retailers, including wholesalers of fermented malt beverages, malt liquors, vinous and spirituous liquors, limited wineries, brew pubs, distillery pubs, and vintner's restaurants.

J. "Sandwiches" as used in articles 3 and 5 of Title 44, C.R.S. are defined as single serving items such as hamburgers, hot dogs, frozen pizzas, burritos, chicken wings, or items of a similar nature. "Light snacks" as used in articles 3 and 5 of Title 44, C.R.S. are defined as popcorn, pretzels, nuts, chips, or items of a similar nature.

K. "Colorado Liquor Code" or "Liquor Code" means article 3 of title 44, C.R.S.

L. "Colorado Beer Code" or "Beer Code" means article 4 of title 44, C.R.S.

M. "Special Event Code" means article 5 of title 44, C.R.S.

N. "Colorado Liquor Rules" means this regulatory article, 1 C.C.R. 203-2.

O. "Division" means the State of Colorado Department of Revenue's Liquor Enforcement Division, except as provided otherwise.

Regulation 47-104. Winery Direct Shipper's Permits.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-104(6), C.R.S. The purpose of this regulation is to clarify the scope of a winery direct shipper's permittee's privileges.

A. For purposes of this regulation, the term "permit" or "permittee" means the natural person or entity holding a winery direct shipper's permit and any manager, agent, servant, officer, or employee thereof.

B. For purposes of this regulation, the term "personal consumer" has the meaning set forth in section 44-3-103(36).

C. Subject to the requirements and limitations in section 44-3-104, C.R.S., a permittee may ship or deliver only wine that it produced or bottled to a personal consumer located in Colorado.

D. A winery direct shipper's permittee shall not engage in any in-person sale (as defined in section 44-3-103(52), C.R.S.) of wine to be shipped or delivered to a consumer in the State of Colorado, except at the licensed premises of a permittee's licensed winery or limited winery, or at an approved sales room of a licensed winery or limited winery that also has received a winery direct shipper's permit.

E. In-person sales (as defined in section 44-3-103(52), C.R.S.) of wine to be shipped or delivered to a consumer in the State of Colorado, shall also be allowed upon the licensed premises associated with a wine festival permit validly held by a licensed winery or limited winery.

Regulation 47-200. Petitions for Statements of Position and Declaratory Orders Concerning the Colorado Liquor Code, Colorado Beer Code, Special Event Code, or Colorado Liquor Rules.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(R), and 24-4-105(11), C.R.S. The purpose of this regulation is to establish clear and comprehensive procedures and considerations required for a statement of position and/or a declaratory order.

A. Statements of Position. Any person may petition the Division of the Colorado Department of Revenue for a statement of position concerning the applicability to the petitioner of any provision of the Colorado Liquor Code, Colorado Beer Code, Special Event Code, or Colorado Liquor Rules.

B. Service of Petition for Statement of Position. A letter for petition for a statement of position shall be served on the Division by mailing or emailing such petition to the Division with a copy sent on the same date to the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, if applicable. Each petition for a statement of position shall contain a certification that the service requirements of this paragraph have been met.

C. Time to Respond. The Division shall respond to a petition for statement of position in writing setting forth its position and the reasons therefore within forty-five (45) days of receiving such petition.

D. Declaratory Orders. Any person who has petitioned the Division for a statement of position and who is dissatisfied with the statement of position may petition the state licensing authority within forty-five (45) days of the issuance of the statement of position for a declaratory order pursuant to section 24-4-105(11), C.R.S. Furthermore, any person who has not received a response within forty-five (45) days, may petition the state licensing authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The parties to any petition for a declaratory order pursuant to this regulation shall be the petitioner and the Division.

E. Requirements of Petition for Declaratory Order. Each petition for a declaratory order shall set forth the following:

1. The name and address of the petitioner; whether the petitioner is licensed pursuant to the Colorado Liquor Code, Beer Code, or Special Events Code and if so, the type of license or permit and address of the licensed premises.

2. The statute, rule, or order to which the petition relates.

3. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule or order to which the petition relates.

4. A concise statement of the legal authorities if any, and such other reasons upon which petitioner relies.

5. A concise statement of the declaratory order sought by the petitioner.

F. Service. A petition for a declaratory order shall be served on the state licensing authority by mailing such petition to the state licensing authority with a copy of the petition sent on the same date to the Division, the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, and to the Revenue & Utilities Section of the Colorado Department of Law. Each petition for a declaratory order shall contain a certification that the service requirements of this paragraph have been met.

G. Acceptance. The state licensing authority will determine whether to entertain any petition for declaratory order. If the state licensing authority decides it will not entertain a petition for declaratory order, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner has failed to petition the Division for a statement of position, or if a statement of position has been issued, the petition for declaratory order was filed with the state licensing authority more than forty-five (45) days after issuance of the statement of position.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.

3. The petition involves a subject, question or issue which is currently involved in a court action, an administrative action before the state or any local licensing authority, ongoing investigation conducted by the Division or a written complaint filed with the state licensing authority or Division.

4. The petition seeks a ruling on a moot or hypothetical question, having no applicability to the petitioner.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo.R.Civ.P. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.

H. Determination. If the state licensing authority determines that it will entertain the petition for declaratory order, it shall promptly so notify all parties involved, and the following procedures shall apply:

1. The state licensing authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing. Any such request for additional information shall be served on all parties.

2. If the state licensing authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, the state licensing authority shall issue a Notice to Set to all parties and on the date so set, a hearing shall be conducted in conformance with section 24-4-105, C.R.S.

3. In ruling on a petition for declaratory order, the state licensing authority may take administrative notice of general, technical or scientific facts within its knowledge, so long as the fact is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.

4. Every declaratory order shall be promptly decided and issued in writing, specifying the basis in fact and law for the order.

5. Any other interested person may seek leave of the state licensing authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

6. A declaratory order shall constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

I. Record Retention and Reliability. Files of all requests, statements of position, and declaratory orders will be maintained and relied upon by the Division for a period of five (5) years, unless the statement of position or declaratory order is superseded by a statutory or regulatory change, or amended or reversed by the state licensing authority. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

Regulation 47-300. Change in Class of License.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change its license class, and provide clarity regarding a licensee's status pending this change.

A. A request for a change in the class of license from that presently held by a licensee shall be considered an application for a new license and subject to the requirements of sections 44-3-311, C.R.S and 44-3-313, C.R.S.

B. Repealed.

C. A new application to change the class of license shall not prohibit a licensee from operating under the terms and conditions of the old license, while its application for change in class is pending. Upon issuance of the new license, the licensee may continue the sale of the alcohol beverage inventory that was purchased under the old license, as long as the new license authorizes the sale of the same type of alcohol beverages. However, nothing herein shall authorize a licensee to sell a type of alcohol beverage unless specifically authorized to do so by the license it holds.

Regulation 47-301. Undue Concentration of Licenses.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(F), C.R.S. The purpose of this regulation is to establish factors the licensing authority may consider when determining whether certain new licenses would result in an undue concentration of the same license type in making such a determination pursuant to section 44-3-301(2)(b), C.R.S.

A. For purposes of determining if the issuance of a new tavern or retail liquor store license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources, the state or local licensing authority may consider factors, including, but not limited to:

1. Whether the ratio of the number of tavern or retail liquor store licenses within the county or counties of the neighborhood to be served where application has been made to the county or counties population exceeds the ratio of the statewide number of licenses of the same class to the state population;

2. Whether the ratio of the number of tavern or retail liquor store licenses within the census tract or census division in the neighborhood in which the applicant premises are located to the population of the census tract or division exceeds the ratio of number of licenses of the same class in the county or municipality to the population of the county or municipality where application has been made;

3. The distance between the applicant premises and the premises of other holders of the same class of license;

4. Published data concerning the concentration of tavern or retail liquor store licenses and its effect on the need for law enforcement resources; and

5. Testimony concerning the use of law enforcement resources by law enforcement officials with the responsibility for enforcing state or local law in the area in which the applicant premises are located.

B. For purposes of this regulation:

1. The number of tavern and retail liquor store licenses within a given area shall be as published by the state licensing authority;

2. The population shall be the estimate published by the most recent United States decennial or special census (for state, census tract, and census division data) or the most recent estimates published by the Department of Local Affairs (for county and municipal data).

3. "Neighborhood" shall be that area as required pursuant to 44-3-312(2)(a), C.R.S.

Regulation 47-302. Changing, Altering, or Modifying Licensed Premises.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44- 3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to establish procedures for a licensee seeking to make material or substantial alterations to the licensed premises, and provide factors the licensing authority must consider when evaluating such alterations for approval or rejection.

A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the latest approved plans and specifications on file with the state and local licensing authorities without application to, and the approval of, the respective licensing authorities.

For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior approval, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises.

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the sale or distribution of alcohol beverages within the licensed premises.

3. Any substantial or material enlargement of a bar, relocation of a bar, or addition of a separate bar. However, the temporary addition of bars or service areas to accommodate seasonal operations shall not require prior approval unless the additional service areas are accompanied by an enlargement of the licensed premises.

4. A temporary outside service area located on a sidewalk owned by a municipality, and that the licensee possesses in accordance with subsection (B)(2) of this regulation, may be approved by the state and local licensing authorities upon the annual filing of a temporary modification of premises application, due at the time of initial application or at the time of renewal, on a form approved by the State Licensing Authority, and payment of the associated fee as set forth in Regulation 47-506, provided that:

    a. the proposed temporary outside service area located on a sidewalk is immediately adjacent to the licensed premises;

    b. The licensed premises, as temporarily modified, will comprise a definite contiguous area; and

    c. Plans and specifications identifying the temporary outside service area located on a sidewalk accompany the form and fee.

5. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure detailed in the latest approved plans and specifications on file with the state and local licensing authorities. However, the following types of modifications will not require prior approval, even if a local building permit is required: painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment; and any non structural remodeling where the remodel does not expand or reduce the existing area designed for the display or sale of alcohol beverage products.

6. The destruction or demolition, and subsequent reconstruction, of a building that contained the retailer's licensed premises shall require the filing of new building plans with the local licensing authority, or in the case of manufacturers and wholesalers, with the state licensing authority. However, reconstruction shall not require an application to modify the premises unless the proposed plan for the newly-constructed premises materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications detailed in the latest approved plans and specifications on file with the state and local licensing authorities.

7. Nothing herein shall prohibit a licensee, who is otherwise not eligible for an optional premises permit or optional premises license, from modifying its licensed premises to include in the licensed premises a public thoroughfare, if the following conditions are met:

    a. The licensee has been granted an easement for the public thoroughfare for the purpose of transporting alcohol beverages.

    b. The public thoroughfare is authorized solely for pedestrian and non-motorized traffic.

    c. The inclusion of the public thoroughfare is solely for the purpose of transporting alcohol beverages between licensed areas, and no sale or consumption will occur on or within the public thoroughfare.

d. Any other conditions as established by the local licensing authority.

B. In making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Colorado Liquor or Beer Codes and related regulations. Factors to be taken into account by the licensing authority shall include,but not be limited to, the following:

1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants.

2. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.

3. Compliance with the applicable zoning laws of the municipality, city and county or county.

4. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.

5. The legislative declaration that the Colorado Liquor and Beer Codes are an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

C. If permission to change, alter or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the licensing authority within fifteen (15) days after the date of notice.

D. This regulation shall be applicable to the holder of a manufacturer's license as specifically defined in Section 44-3-402, C.R.S., or a limited winery defined in section 44-3-403, C.R.S, only if the physical change, alteration, or modification involves any increase or decrease in the total size of the licensed premises. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).

E. Neither the state or local licensing authority shall impose any additional fees for the processing or review of an application for a modification of premises for the holder of a manufacturer’s license.

F. Due to public health concerns raised by the presence COVID-19 in Colorado, a licensee may apply to temporarily modify its licensed premises to facilitate social distancing by employees and customers and to facilitate compliance with the requirements of applicable public health orders (*See* Regulation 47-1102).

1. If permitted by the relevant local licensing authority, the temporary premises modification may include expansion of the licensed premises into outside areas that the licensee possesses in accordance with subsection (B)(2) of this regulation, provided that:

a. Any outside area proposed to be included in the licensed premises, as temporarily modified, is contiguous or adjacent to the licensed premises and appropriately monitored by the licensee;

b. The licensed premises, as temporarily modified, will comprise a definite contiguous area;

c. The licensee will designate the boundaries of the licensed premises, as temporarily modified, using barriers approved by the local licensing authority and state licensing authority and post warning signs in areas visible to the public, including all points of ingress and egress, regarding laws against public consumption of alcohol beverages;

d. The licensed premises, as temporarily modified, will not encroach upon or overlap with the licensed premises of any other licensee;

e. The licensed premises, as temporarily modified, complies with local building and zoning laws; and

f. The licensed premises, as temporarily modified, complies with all other restrictions and requirements imposed by the Colorado Liquor Code and Rules.

2. A temporary modification of a licensed premises pursuant to this subsection (F) may be approved by the state and local licensing authorities after the filing of a temporary modification of premises application on a form approved by the State Licensing Authority, including plans and specifications of the licensed premises, as temporarily modified, and a one-time payment of the Modification of Licensed Premises fee set forth in Regulation 47-506.

3. Any temporary modification approved pursuant to this subsection (F) shall expire one hundred twenty days from the date subsection (F) of this regulation is adopted by the State Licensing Authority, unless extended by subsequent rule or other action of the State Licensing Authority. A licensee is not required to pay an additional Modification of Licensed Premises fee or obtain approval to remove a temporary modification to the licensed premises upon expiration of this subsection (F).

Regulation 47-302(A)(4) is effective April 1, 2019.

Regulation 47-303. License Renewal.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to clarify and establish procedures and deadlines for a licensee that is applying to renew its license in accordance with section 44-3-302, C.R.S.

A. No one other than the license holder, or their duly-authorized representative, may file an application to renew the license with local and state licensing authorities.

B. A complete renewal application shall include evidence that the licensee remains in possession of the licensed premises, by ownership, lease, rental, or other arrangement at the time of application. An agreement that may lapse within the new license year neither automatically disqualifies the licensee from renewing, nor automatically invalidates the license. However, this provision does not preclude the state or local licensing authority from initiating any action as provided by law to suspend or revoke a license for loss of possession of the licensed premises.

C. Nothing herein authorizes a licensee to purchase, sell, or serve alcohol beverages with an expired license, except as authorized in subsections D, E(2), and F(3) of this regulation. Licensed privileges are not restored until and unless the applicable requirements of section E(2) and/or F(3) of this regulation are met.

D. Application for the renewal of an existing license shall be made to the local licensing authority not less than forty-five (45) days prior to the date of expiration and to the state licensing authority not less than thirty (30) days prior to the date of expiration. The state or local licensing authority may waive these requirements for good cause. Once an application for renewal has been filed with the local licensing authority, or the state licensing authority for state only licenses, the licensee may continue to operate until final agency action

E. License expired for not more than ninety (90) days.

1. A licensee whose license has not been expired for more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee to the local licensing authority, and/or the state licensing authority.

2. A licensee who files a late renewal application and pays the requisite fees may resume operation until the state and/or local licensing authorities have taken final agency action to approve or deny such licensee's late renewal application.

F. License expired for more than ninety (90) days, but less than one hundred eighty (180) days.

1. Any licensee whose license has been expired more than ninety (90) but less than one hundred eighty (180) days, may submit to the local licensing authority, or state licensing authority for state only licenses, an application:

a. For a new license, subject to section 44-3-301, C.R.S., or

b. For a reissued license, subject to subsection 44-3-302(2)(d), C.R.S.

2. The local licensing authority, or state licensing authority for state-only licenses, shall have sole discretion to determine whether to allow a licensee to apply for a reissued license. If the local licensing authority, or state licensing authority for state-only licenses, does not allow the licensee to apply for a reissued license, then the licensee must apply for a new license.

3. A licensee may resume operation until both the state and local licensing authorities have taken final agency action to approve or deny the licensee's application only if the local licensing authority, or state licensing authority for state-only licenses:

a. Allows a licensee to apply for a reissued license; and

b. Accepts the reissued license application and required fees and fines.

G. Any licensee whose license has been expired for one hundred eighty (180) days or more must apply for a new license pursuant to section 44-3-311, C.R.S., and shall not purchase or sell any alcohol beverage until all required licenses have been obtained, unless otherwise authorized under these regulations.

Regulation 47-304. Transfer of Ownership and Changes in Licensed Entities.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-107(1), 44-3-202(1)(b), 44-3-202(2)(a)(I)(J), 44-3-202(2)(a)(I)(R), 44-3-301(7), 44-3-303(3)(b), and 44-3-308, C.R.S. The purpose of this regulation is to establish reporting and disclosure requirements for the identification of applicants, licensees, and their relevant financial interests to promote transparency and prevent the occurrence of statutorily prohibited financial interests between the manufacturing, wholesale, and retail tiers.

A. Corporations and Limited Liability Companies

1. If the applicant for any license under Articles 3 or Article 4 of Title 44 is a corporation or limited liability company, it shall submit with the application, the names, addresses, and individual history records of all of its principal officers, directors, or managers, and a copy of its articles of incorporation or articles of organization; and if a foreign entity, evidence of its qualification to do business within this state. In addition, each applicant shall submit the names, addresses, and individual history records of all persons owning 10% or more of the outstanding or issued capital stock, or persons holding a 10% or more membership interest.

2. Any transfer of capital stock or any change in principal officers or directors of any corporation holding a license under the provisions of the Colorado Liquor or Beer Code and which is not subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended, shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new officer, director, or stockholder acquiring 10% or more outstanding capital stock, as well as the corporate minutes verifying the transactions. Licensees that are subject to the Securities and Exchange Act of 1934, as amended, shall be required to do the same, except that they shall not be required to report any single transfer of outstanding capital stock of less than 10%.

3. Any transfer of membership interest or any change in managers of any limited liability company holding a license shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new manager, or member acquiring 10% or more membership interest.

B. Partnerships

1. If the applicant for any license under articles 3 or 4 of title 44 is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership it shall submit with the application, the names, addresses, and individual history records of all of its general or managing partners, and a copy of its partnership agreement; and, if a foreign entity, evidence of its qualification to do business within this state. In addition, each applicant shall submit the names, addresses, and individual history records of any other partner holding a 10% or more partnership interest.

2. Any transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported to the respective licensing authorities within thirty (30) days after such transfer or change. With the report, the licensee shall submit the names, addresses, and individual history records for any new general or managing partner, or any other partner acquiring 10% or more partnership interest.

C. Municipalities and Other Governmental Entities

1. If the applicant for any license under articles 3 or 4 of Title 44 is a municipality or other governmental entity, it shall submit with the application, the name, address and individual history record of at least one member of its governing body, or at least one person hired or appointed by its governing body, to serve as an officer or director; except that, pursuant to section 44-3-107(1), C.R.S., a person who has an interest in a liquor license may not be listed as an officer or director on a license owned, or to be owned, by a municipality or other governmental entity if that person individually manages or receives any direct financial benefit from the operation of such license. If the governing body of a municipality or other governmental entity hires or appoints more than one officer or director, the name, address and individual history record of each such officer or director shall be submitted with the application.

2. Any change in the officers or directors of a license held by a municipality or other governmental entity shall be reported to the respective licensing authorities within thirty (30) days after such change. With the report, the licensee shall submit the names, addresses, and individual history records for any new officers or directors.

D. Entity Conversions

1. Any licensee that qualifies for an entity conversion pursuant to section 7-90-201, C.R.S., et. seq., or similar law enacted by other states, shall not be required to file a transfer of ownership application pursuant to section 44-3-303, C.R.S. upon statutory conversion, but shall submit a report containing suitable evidence of conversion within thirty (30) days of such conversion. Such evidence shall include, but not be limited to, recognition of conversion by the Colorado Secretary of State. In addition, within thirty (30) days of the conversion, the licensee shall submit the names, addresses, and individual history records of any new officers, directors, managers, general or managing partners, and all persons having an ownership interest of 10% or more.

E. All reports required by this regulation shall be made on forms supplied by the Division.

F. For all applicants for the issuance of a license by reason of a transfer of possession of the licensed premises by methods to include operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to article 40 of title 13, C.R.S., the licensing authorities shall consider only the requirements of section 44-3-307, C.R.S. The loss of possession of the licensed premises by the licensee does not in itself automatically invalidate, cancel or terminate the underlying license. An applicant who otherwise comes into possession of the licensed premises by operation of law, may apply for a transfer of the underlying license as provided by law pursuant to section 44-3-303, C.R.S. This provision does not prohibit a licensing authority from initiating any action as provided by law to suspend or revoke a license for loss of possession of the licensed premises.

G. No application for a transfer of ownership may be received or acted upon by either the state or local licensing authority if the previous licensee has surrendered its license and had it canceled by either authority prior to submission of the transfer application. In cases where cancellation has occurred prior to the submission of a transfer of ownership application, the license applicant shall follow the procedures for a new license application pursuant to section 44-3-311, C.R.S.

Regulation 47-305. Transfers – Wholesaler Confirmation.

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), and 44-3-303(1)(d), C.R.S. The purpose this regulation is to provide guidance to applicants and licensing authorities regarding statutory requirements for transfers under subsection 44-3-303(1)(d), C.R.S. and what is satisfactory to demonstrate fulfillment of the requirement that all wholesalers have been paid in full prior to approval of a transfer application.

A. In accordance with section 44-3-303(1)(d), C.R.S., the applicant shall deliver a confirmation to each wholesaler licensed under this article, including brew pubs, distillery pubs, vintner's restaurants and limited wineries, who has sold alcohol beverages to the transferor-licensee within the preceding one hundred eighty (180) calendar days, in the form and substance approved by the Division.

B. The confirmation shall be delivered via United States mail or other common carrier with a minimum of a return receipt to the last known business address of the wholesaler, attention: credit department. The confirmation shall be deemed received by a wholesaler upon the third (3rd) day following the date on which the confirmation is deposited in the United States mail or common carrier or the date on the return receipt.

C. Upon delivery of a confirmation to a wholesaler, the transferor-licensee shall not purchase alcohol beverage on credit or accept an offer or extension of credit from the wholesaler and shall effect payment upon delivery of the alcohol beverage from the wholesaler. Allowed payments include cash, credit or debit cards, check, money orders, certified check, EFT transfer and any other method of payment approved by the Division.

D. A wholesaler shall have fifteen (15) business days upon receipt of a confirmation to complete and return the confirmation to the applicant, in the same manner and extent as specified in section B of this regulation. If a wholesaler does not complete and return the confirmation within the fifteen (15) business day period of time, the wholesaler shall be deemed paid in full solely for purposes of transferring the license.

E. Nothing within this regulation shall prohibit or restrict a local licensing authority from issuing a temporary permit or from processing the transfer application. However, a transfer shall not be approved unless the transferor-licensee is in compliance with this regulation.

F. The applicant, transferor-licensee and/or its agent and assign, and each wholesaler shall act in good faith and fair dealing with each other.

Regulation 47-306. Change of Trade Name.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(J), C.R.S. The purpose of this regulation is to establish guidelines of the use of a trade name and the reporting requirements for a licensee that is changing the name or trade name of its licensed premises.

A. No licensee shall use a new business name or trade name without submitting written notice to the local and state licensing authorities, not less than ten (10) days prior to the use of a new business name or trade name.

B. Exterior signage or advertising of the business name or trade name is not required, but if used, must accurately reflect the current business name or trade name on file with the Division.

Regulation 47-307. Master Files.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), and 44-3-304(1)(d), C.R.S. The purpose of this regulation is to establish rules governing master files, and the minimum number of locations required for master file privileges.

A. Any person or entity seeking the issuance of a state master file pursuant to section 44-3-304(1)(b), C.R.S. shall have an interest in a minimum of five (5) approved state licenses, pursuant to articles 3 and/or 4 of title 44, C.R.S.

B. A master file applicant can meet the minimum requirements of this regulation by having an interest in separate licensed locations, as long as there are a minimum of five (5) total licenses approved.

C. To maintain a state master file, once approved and established, the licensee shall comply with section 44-3-301(7), C.R.S. and Regulation 47-304 as it relates to the timely disclosure of any change in structure. Repeated failure to comply with timely advisement to the state licensing authority shall be grounds for the state licensing authority to suspend or revoke a licensee's master file privileges.

D. Any licensed premises included in a master file must be constructed and placed in operation within two (2) years of approval of the license in order to be considered part of the master file.

E. No local licensing authority shall require applicants with an approved master file to file additional fingerprints or background investigation forms. Nothing in this section shall prohibit a local licensing authority from conducting its own investigation, or from verifying any of the information provided by the applicant, or from denying the application of the applicant pursuant to the provisions set forth in section 44-3-307, C.R.S.

Regulation 47-308. Repealed.

Regulation 47-309. Sports and Entertainment Venues.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), and 44-3-301(6), C.R.S. The purpose of this regulation is to establish guidelines for the sale of alcohol beverages in sports and entertainment venues with at least one thousand five hundred (1,500) seats.

A. This regulation shall apply to licensees at facilities owned by a municipality, county, or special district, or at publicly or privately owned sports and entertainment venue with a minimum seating capacity of one thousand five hundred (1,500) seats.

B. Licensees authorized to sell alcohol beverages in these venues may sell or provide alcohol beverages in sealed containers to adult occupants of areas within the licensed premises that have limited public access.

C. Licensees are otherwise responsible for any violations of the Colorado Liquor Code within such limited public access areas and shall not prevent inspection of the premises by any law enforcement official.

D. The licensee shall not allow any person to bring alcohol beverages onto the licensed premises that were not purchased from the licensee, or allow any person to leave the licensed premises with a container of alcohol beverage that was provided by the licensee.

Regulation 47-310. Application - General Provisions.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A),44-3-202(2)(a)(I)(R), 44-3-304(1), and 44-3-307, C.R.S. The purpose of this regulation is to establish requirements for a license application, and provide factors the licensing authority must consider when evaluating an application for approval or rejection.

A. All applications for state licenses for the manufacture or sale of alcohol beverages shall be made upon forms prescribed by the Division. No application will be considered which is not complete in every material detail, or which is not accompanied by a remittance in full for the whole amount of the annual state license fee, and eighty five percent of the local license fee. Each application for a new retail license shall contain a report from the local licensing authority of the town, city, county, or city and county, in which the applicant proposes to conduct its business, which report shall show the opinion of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the issuance of the license applied for and the character of a new applicant.

B. If the applicant for a license is a partnership, except as between a husband and wife, it shall submit with the application a certificate of co-partnership.

C. Upon request of any licensing authority, each applicant for license shall provide suitable additional evidence of its citizenship, residence, and good character and reputation, and also of the reasonable requirements of the neighborhood and the desires of the adult inhabitants. Applicants and licensees shall also submit upon request of any licensing authority all required information concerning financial and management associations and interests of other persons in the business, and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.

D. All information submitted to any licensing authority, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. Willful or deliberate misrepresentation may result in a denial or revocation of a license.

E. When a licensing authority is required to make a determination as to the character, record and reputation of existing licensees or applicants for new licenses, including transfers of ownership of existing licenses, the authority may consider the following factors, which may include but not be limited to the following:

1. Subject to 24-5-101, C.R.S., the applicant or licensee has knowingly submitted false applications, made willful misrepresentations and/or knowingly committed fraudulent acts;

2. The applicant or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, fraud, forgery, murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drugs or narcotics convictions;

3. The applicant or licensee has had previous alcohol beverage licenses denied or revoked as a result of violations of law, resulting in a finding of bad moral character by any licensing authority;

4. The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes related to a business;

5. The applicant or licensee has an established pattern of multiple statutory violations which resulted in the revocation or denial of any other professional license.

6. The finding of a person who is not of good moral character by any licensing authority.

F. Pursuant to 24-5-101, C.R.S., when making a determination as to the character, record or reputation of a licensee or applicant as required by title 44, articles 3, 4 and 5, the licensing authority shall also consider evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal history record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction.

G. When considering whether the applicant for a special event permit is of good moral character and record, the state or local licensing authority shall determine, at a minimum, whether the applicant failed to conduct past special events in compliance with applicable liquor laws. Officers of the organization or of a political candidate making application shall not be required to submit individual history applications and fingerprint cards unless the state or local licensing authority determines that such information is necessary to establish the good moral character of the applicant.

H. A municipality or other governmental entity that applies for a license, or to renew a license, shall submit with the application the name, address, and individual history record of at least one member of its governing body, or at least on person hired or appointed by its governing body, to serve as an officer or director; except that, pursuant to section 44-3-107(1), C.R.S., a person who has an interest in a liquor license may not be listed as an officer or director on a license owned, or to be owned, by a municipality or other governmental entity if that person individually manages or receives any direct financial benefit from the operation of such license. If the governing body of a municipality or other governmental entity hires or appoints more than one officer or director, the name, address and individual history record of each such officer or director shall be submitted with the application.

Regulation 47-311. Public Transportation System License.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to make clear that under the specified circumstances a commercial airline must apply for and receive a public transportation system license.

In addition to any public system transportation licenses issued for a permanent licensed premises, a commercial airline shall apply for and receive a public system transportation license for an airplane if any of the following conditions are met:

A. Alcohol beverages are sold or served while the airplane is stationary anywhere in the State of Colorado; or

B. Alcohol beverages are purchased from a Colorado Wholesaler; or

C. Alcohol beverages are stored on the airplane for more than twenty-four (24) hours while in the State of Colorado.

Regulation 47-312. Change of Location.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-301(9), 44-3-309, and 44-3-410, C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change the location of the licensed premises, and provide factors the licensing authority must consider when evaluating a change for approval or rejection.

A. When a licensee for the manufacture or sale of alcohol beverages desires to change the location of its licensed premises from the location named in an existing license, it shall make application to the applicable licensing authorities for permission to change location to the place where such license is to be exercised, except that an application for change of location shall not be required for the demolition and reconstruction of the building in which the original licensed premises was located.

B. Applications to change location shall be made upon forms prepared by the state licensing authority and shall be complete in every detail. Each such application shall state the reason for such change, and in case of a retail license, shall be supported by evidence that the proposed change will not conflict with the desires of the adult inhabitants and the reasonable requirements of the neighborhood in the vicinity of the new location. An application to change the location of a retail license shall contain a report of the local licensing authority of the town, city, county, or city and county in which the license is to be exercised. Such report shall describe the findings of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the new location, except that in the change of location for a club license, the needs of the neighborhood need not be considered. When a licensee is required by lease, lease renewal, condemnation, or reconstruction to move its licensed premises to a new address that is located within the same shopping center, campus, fairground, or similar retail center, the local or state licensing authority may, at its discretion, waive the neighborhood needs and desires assessment requirements should it determine that the new location remains within the same neighborhood as the old location.

C. For retail licenses, no change of location shall be permitted until the state licensing authority has, after approval of the local licensing authority, considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. A local licensing authority may, at its discretion, extend the time to change the location of the licensed premises, for good cause shown. However, no extension that is beyond twelve (12) months from the original date of approval shall be granted.

D. For those licensees not subject to approval by the local licensing authority, no change of location shall be permitted until the state licensing authority has considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. The state licensing authority may, at its discretion, extend the time to change the location, for good cause shown. However, no extension that is beyond twelve months from the original date of approval shall be granted.

E. Once the licensee has changed it licensed location, the permit to change location shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains until the license is renewed.

F. For retail licenses no change of location shall be allowed except to another location within the same city, town, county, or city and county in which the license was originally issued. Except, a retail liquor store licensed on or before January 1, 2016, may apply to move its permanent location to another place within or outside the municipality or county in which the license was originally granted. Once approved, the retail liquor store licensee shall change the location of its premises within three (3) years after such approval. A change of location for a fermented malt beverage retailer or retail liquor store will be approved only if the new location satisfies the distance requirements in section 44-3-301(9)(a)(I)(B)-(C), C.R.S. It is unlawful for a licensee to sell any alcohol beverage at a new location until permission is granted by the state licensing and local licensing authorities.

G. Upon application for change of location, public notice shall be required by the local licensing authority in accordance with Section 44-3-311, C.R.S.

H. A licensee located within 500 feet from any public or parochial school or principal campus of any college, university or seminary may apply for a change of location within the same prohibited area in accordance with the requirements of section 44-3-301(9), C.R.S., but may not apply for a change of location within any other prohibited area as defined within section 44-3-313, C.R.S.

Regulation 47-313. Tastings.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), 44-3-301(10), 44-3-409(1)(c)(III), and 44-3-410(1)(a)(II)(B), C.R.S. The purpose of this regulation is to clarify who may conduct tastings and how open and unconsumed samples must be appropriately treated after a tasting. This regulation applies only to tastings conducted on the licensed premises of retail liquor stores and liquor-licensed drugstores pursuant to section 44-3-301(10), 44-3-409(1)(c)(III), and 44-3-410(1)(a)(II)(B), C.R.S.

A. Tastings.

1. A tasting shall be conducted only by a person who has completed seller-server training that meets the standards established by the Division, and is:

a. A retail liquor store or liquor-licensed drugstore licensee or employee; or

b. A representative, employee, or agent of one of the following suppliers licensed by the state licensing authority:

i. Wholesaler;

ii. Brew pub;

iii. Distillery pub;

iv. Manufacturer;

v. Limited winery;

vi. Importer; or

vii. Vintner's restaurant.

B. Following a tasting, the licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use only at a tasting conducted at a later time or date. A secure area means:

1. A designated area, including, but not limited to, a closet, cabinet, or safe;

2. That is upon the licensed premises and not accessible to consumers; and

3. Is secured by a locking mechanism at all times while any open containers of unconsumed alcohol beverages are stored for use at a future tasting.

C. To ensure alcohol samples are provided to a patron free of charge, as required by section 44-3-301(10)(c)(X), C.R.S., the licensee shall not charge or accept any money for a tasting, directly or indirectly, including for any education provided in connection with a tasting, or to reserve a spot at a tasting event, regardless of whether the money charged is donated to a charity or is refunded. Education shall not be considered to be provided in connection with a tasting if the tasting occurs after the education event has concluded and is available to any adult patron of the licensee, free of charge.

D. To comply with the obligation not to serve more than four individual samples to a patron during a tasting, as required by section 44-3-301(10)(c)(IX), C.R.S., the licensee shall implement a means of tracking how many samples each patron is provided, which may include the use of a wristband, or other means of accurately tracking individual patron consumption.

E. To comply with the obligation not to serve samples to a patron over the maximum allowed volume per alcohol type, as required by section 44-3-301(10)(c)(I)(B)(III), C.R.S., a licensee serving alcohol beverages mixed with non-alcohol beverage product shall either:

1. Serve no more than the maximum allowed volume per alcohol type, per sample, of a pre-mixed beverage, if the mixing of the alcohol is not done in public view during the tasting event; or

2. Mix the alcohol beverage with the non-alcohol beverage in public view during the tasting event, wherein only the maximum allowable amount of alcohol beverage is incorporated into each mixed drink, per sample.

Regulation 47-314. Limited Liability Company.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(J), 44-3-202(2)(a)(I)(R), and 44-3-307(1), C.R.S. The purpose of this regulation is to establish reporting and disclosure requirements for the identification of a limited liability company's managers, and applicable members and their relevant financial interests in order to promote transparency and avoid violations of statutorily prohibited overlapping financial interests.

A. A Limited Liability Company may conduct any business that a partnership with limited partners may lawfully conduct and may not conduct any business that is prohibited by law to such partnership. Such limited liability company shall be in full conformity with 7-80-101, C.R.S.

B. Each Limited Liability Company licensed pursuant to this Article or Article 4, of Title 44, shall report changes of any of its managers, or members having a 10% or more interest in the license, except that any transfer of a controlling interest shall be reported regardless of its size, within 30 days from the date of the change, and shall submit said information to the respective local or state licensing authorities on forms approved by the Division.

Regulation 47-315. Lodging and Entertainment License.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(L), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to describe those sports and entertainment activities which qualify an establishment as an entertainment facility. Additionally, the purpose of this regulation is to describe how to determine the primary business of a lodging and entertainment facility.

A. In addition to other statutory requirements, a lodging and entertainment license may be issued to a qualifying lodging and entertainment facility. A "lodging and entertainment facility" is an establishment that is either:

1. A “lodging facility,” the primary business of which is to provide the public with sleeping rooms and meeting facilities; or

2. An “entertainment facility,” the primary purpose of which is to provide the public with sports or entertainment activities within its licensed premises.

B. To qualify as an entertainment facility, the applicant or lodging and entertainment licensee must demonstrate that its primary business is to provide qualifying sports or entertainment activities within its licensed premises.

1. To qualify as a sports activity, the activity must provide the public with an opportunity to participate in, or to observe others who participate in, an activity such as a game, recreation, team or individual sport, or an activity of a similar nature. Examples of qualifying sports activities include, but are not limited to, the following:

a. Arcade games;

b. Billiards;

c. Bowling;

d. Golf; or

e. Laser tag.

2. To qualify as an entertainment activity, the activity must provide the public with an opportunity to participate in or observe others who participate in an activity that is primarily artistic, cultural, educational, or entertaining, or an activity of a similar nature. Examples of qualifying entertainment activities include, but are not limited to, the following:

a. Artistic exhibitions, films, or performances;

b. Arts and crafts classes;

c. Cooking classes;

d. Amusement rides; or

e. Spa experiences.

i. For purposes of this regulation, to qualify as a “spa experience” the facility must offer at least three (3) of the following treatments and experiences:

A. Facials;

B. Massage therapy;

C. Skin treatment;

D. Body wraps; or

E. Body waxing.

3. The following activities shall not qualify as entertainment activities for purposes of an entertainment facility:

   a. Any activity not described in subparagraphs (B)(1) or (B)(2) of this regulation; and

   b. Shopping for or receiving goods or personal services, including but not limited to hair care or nail care services.

C. An activity that would otherwise qualify under subparagraphs (B)(1) and (B)(2) of this regulation, shall not qualify if the activity involves the use of a deadly weapon as defined by subsection 18-1-901(3)(e), C.R.S., or creates a substantial health and safety risk to any person.

D. Determining the primary business of a lodging and entertainment facility.

1. To satisfy the requirement that the primary business of a lodging facility is to provide the public with sleeping rooms and meeting facilities, and that serving and selling alcohol beverages is incidental thereto, the lodging facility's annual gross revenues from the sale of sleeping rooms and meeting facilities must exceed fifty (50) percent of the lodging facility's total annual gross sales revenues.

2. To satisfy the requirement that the primary business of an entertainment facility is to provide the public with sports or entertainment activities, and that serving and selling alcohol beverages is incidental thereto, the entertainment facility's annual gross revenues from the sale of sports or entertainment activities must exceed fifty (50) percent of the entertainment facility's total annual gross sales revenues.

Regulation 47-316. Advertising Practices

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), and 44-3-308, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited advertising practices between suppliers and retailers.

A. Consumer Advertising Specialties

1. "Consumer advertising specialties" shall mean those items primarily designed to advertise or promote a specific alcohol beverage brand or supplier, that are intended and designed to be carried away by the consumer, and that have negligible value. Consumer advertising specialties are considered to be of negligible value if the suppliers' cost to purchase the consumer advertising specialties is less than ten (10) dollars per item. Apparel items are considered to be of negligible value if the suppliers' cost to purchase a single apparel item is less than twenty-five (25) dollars per item. For purposes of this regulation, glassware, plates, and barware such as jiggers, bar tins, and utensils do not qualify as consumer advertising specialties.

2. Suppliers may provide consumer advertising specialties of negligible value free of charge to a licensed retailer, so long as the consumer advertising specialties contain an advertising message that promotes the supplier or their products, and do not contain any information, markings, or logos that are specific to a retailer.

3. Consumer advertising specialties that contain any information, markings, or logos specific to a licensed retailer may not be provided free of charge, but must be purchased by a retailer at a minimum of the supplier's cost.

4. Licensees must have available for inspection those customary business records that verify these transactions, in accordance with section 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700.

B. Point-of-Sale Advertising

1. "Point-of-sale advertising" shall mean alcohol beverage brand-specific or supplier-specific promotional materials, within a retailer's licensed premises. Such items may also include a retailer's name and address.

2. Suppliers may provide the following point-of-sale advertising materials of negligible value to licensed retailers free of charge for use within retail premises: display decorations of negligible value, table tents, table tent holders, sports schedules and brackets, case cards, serving trays, condiment trays, bar utensil caddies, stir rods, strainers, presses, check and credit card holders, shakers, pitchers, table mats, bar mats, alcohol beverage lists or menus, menu cards, menu holders, calendars, napkins, napkin holders, coasters, stir sticks, and similar items of negligible value, as approved by the Division.

3. A supplier may advertise, within retail premises, alcohol beverage products, consumer mail-in rebate offers, consumer giveaways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms.

4. Supplier Rebates for Consumers and Supplier Coupons

   Supplier rebates and coupons, as contemplated in this regulation, are a permitted method of alcohol beverage product promotion if they are intended to reach the consumer through permitted advertising practices, and to provide the consumer with a direct financial benefit through the redemption process. Rebates and coupons may not be used as a means of financial assistance to licensed retailers or as a means to influence or control a retailer's product selection.

   a. A supplier's "consumer rebate" provides a consumer with cash back after the consumer has purchased a supplier's product and has provided proof of product purchase upon redemption.

      i. A supplier may provide consumer rebate certificates to consumers through point-of-sale advertising (such as tear pads, shelf talkers, case cards, or other point-of-sales materials), package inserts, or other printed or electronic media.

      ii. A supplier's consumer rebate certificate may not be redeemed through a licensed retailer.

   b. A supplier's "instant redeemable coupon" provides a consumer with a discount off of the retailer's selling price of an alcohol beverage product, at the time it is redeemed through a licensed retailer.

      i. Licensed retailers may redeem suppliers' instant redeemable coupons only after they have been made available to consumers through general print or electronic media directed at the consumer; package inserts; or, a supplier's representative or agent, who is not the retailer or their agent, who is providing coupons to consumers at the retail premises for the purpose of product promotion.

ii. Licensed retailers are prohibited from accepting and redeeming any supplier-issued instant redeemable coupons unless redemption included presentation of the coupon by a consumer with the purchase of the product advertised therein, or in accordance with other applicable redemption rules specified by the supplier or their marketing agents.

iii. Suppliers are prohibited from providing their instant redeemable coupons directly to licensed retailers, except when said coupons are packaged with, or attached to, each individual product package before such products are delivered to a licensed retailer.

iv. Suppliers may never reimburse licensed retailers for suppliers' instant redeemable coupons. Redemption must be through a third party that is independent from the supplier and the retailer.

v. Retailers must have available for inspection, applicable business and banking records that verify these transactions, in accordance with 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700. Verification may include the retailer's reconciliation of coupons redeemed to related products sold to consumers.

5. Supplier Sponsored Consumer Contests and Related Displays

A supplier may advertise, within retail premises, alcohol beverage products, via consumer mail-in rebate offers, consumer give-a-ways, sweepstakes, contests, and cross promotions with non-alcohol beverage products. Suppliers may also provide contest and sweepstakes information and consumer entry forms. Further, suppliers may provide items to be given away in a consumer give-a-way, sweepstake, or contest, to a retailer with the purpose of the item being displayed in the retail licensed premises during the contest period, subject to the regulations below, to be given away in a consumer give-a-way, sweepstake or contest.

For consumer give-a-ways, sweepstake or contests, (collectively "Consumer Contest") the following regulations shall apply:

a. No item provided as part of a Consumer Contest may be awarded to, received by or otherwise kept by the licensee or any of the licensee's employees or an employee's immediate or extended family members.

b. No item provided as part of a Consumer Contest may be awarded to, received by or otherwise kept by a supplier licensee that is providing alcohol beverage products to the retail licensee or any of the supplier licensee's employees or any supplier licensee's employee's immediate or extended family members.

c. Any item(s) to be given away in a Consumer Contest must be awarded and given to the winning consumer within the time afforded by this regulation. Otherwise the item(s) must be returned to the supplier who will be responsible for awarding the item(s) to the winner.

d. If the actual item(s) that is(are) part or the Consumer Contest are delivered to the retail license premises with the intention of displaying the item during the contest period, the item(s) shall be delivered together with an invoice made out to the retail licensee for not less than the actual cost of the item(s). The retail licensee shall be responsible for and required to pay the invoice cost for the item unless the retail licensee can establish to the satisfaction of the Division that the item(s) was(were) in fact presented to the winning consumer in accordance with the rules of the Consumer Contest. Both the retail licensee and the supplier of the item shall each maintain in their respective records proof establishing that the item(s) was(were) delivered to the winning consumer. Such records shall include but not be limited to a signed acknowledgement of receipt of the item(s) by the winning consumer which acknowledgment shall include a valid form of identification proving the identity of the consumer, the consumer's name, address, phone number, e-mail address (if available) and the date on which the item was presented to the consumer. In addition, the records shall include the name and position of the person or persons presenting the item to the consumer sufficient so that the Division can verify that the item was presented to the Consumer Contest winner.

e. The Consumer Contest, including the drawing period, shall not last longer than 60 days.

f. In the event that the supplier does not have the signed acknowledgement of receipt from the consumer within 30 days of the end of the Consumer Contest, it is the responsibility of both the retail licensee and the supplier, that payment in full of the invoice by the retail licensee is made to the supplier for the item(s). Absent payment within 24 hours of the expiration of the 30 day period, no supplier representing the brand advertised in the Consumer Contest shall be permitted to sell or otherwise provide any product to the retail licensee until the invoice is paid in full.

g. Entrance into the Consumer Contest is not contingent on any purchases.

h. The actual item(s) that is (are) part of the Consumer Contest may be on display in the licensed premises only during the period of the Consumer Contest. At the end of the contest period, the item(s) may be stored at the retailer location for no more than 30 days following the end of the Consumer Contest period.

i. The item(s) must be properly identified in signage as a prize that is part of the Consumer Contest, e.g. "Win this Umbrella."

j. Signage shall display the starting date and ending date of the Consumer Contest, the name of the company providing the item(s), and all other relevant terms and conditions of the Consumer Contest.

C. Media Advertising

1. Except as provided in Regulations 47-322(B) and 47-322(C), and subsection (C)(3) of this regulation, no supplier shall directly or indirectly furnish or pay for any advertising for or with respect to any one or more retail licensee by means of the internet, device applications (apps), radio or television broadcast, magazines, newspapers, pamphlets, or similar media, or by means of any sign not located on or in the licensed premises of the retailer which is advertised.

2. Except as provided in Regulations 47-322(B) and 47-322(C), suppliers that purchase internet, device applications (apps), radio or television advertising packages from third party advertising agencies:

   a. May not authorize the advertising agency to apply any value attributable to the supplier's advertising package toward the advertising or promotion of any licensed retailer or their location.

   b. May not authorize the advertising agency to combine supplier-purchased advertising packages with those purchased by licensed retailers, for the purpose and benefit of cooperative advertising.

3. A supplier may directly or indirectly advertise for or with respect to any one (1) or more retailers that sell the supplier's alcohol beverages, via the supplier's internet websites (including forums such as a supplier's Facebook page, blog or device applications (apps)) and electronic advertising messages delivered directly to consumers' private electronic devices.

4. Closed-circuit television advertising networks, or similar advertising networks, that deliver advertising messages to consumers are permitted in retail licensed premises with the following conditions:

   a. A supplier may not provide a licensed retailer with any electronic equipment necessary to deliver network advertising.

   b. A licensed retailer may not receive revenues, directly or indirectly, from licensed suppliers who advertise on the network. Revenue from non-alcohol beverage suppliers who advertise on the same network, which can be clearly distinguished by the network advertiser from supplier revenues, are permitted provided that the retailer can document that the source of the revenue is not a licensed supplier.

   c. The advertising network and all related advertising receipts and distributions must be controlled by third party entities who are not licensed pursuant to article 3 or 4 of title 44, and who are wholly independent, in both form and substance, of any licensed supplier or retailer.

D. Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44, and related regulations, and such organization does not otherwise hold a retail license pursuant to articles 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

E. Except as otherwise provided for in this regulation, no supplier shall directly or indirectly pay to any retailer, and no retailer shall accept, any value or consideration in connection with or for the right or privilege of posting or maintaining any advertising message, on or in, or relating to a retailer's licensed premises.

Regulation 47-317. Market Research – Non-Licensed Locations.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of 1 C.C.R. 203-2, Regulation 47-317 is to provide guidance regarding the circumstances and processes under which consumer market research may be conducted on non-licensed premises.

Market research alcohol beverage consumer taste tests on an unlicensed liquor premises are authorized subject to the following guidelines:

A. The research company may contact people and conduct taste tests at shopping malls or other public meeting places, but the taste tests must take place in a non-public area.

B. All participants must be 21 years of age or older and not exhibit visible signs of intoxication.

C. There shall be no charge or fee to participate in the taste test, however, the participant may be paid for participating in the market research.

D. The product tasted must come through the 3-tier system to a Colorado wholesaler and the excise tax on the product has been paid.

E. The product must be purchased from a liquor licensee authorized to sell alcohol beverages for off-premises consumption.

F. The research company must notify the Division in writing of the date, time and location of the tasting prior to the taste tests.

G. Taste tests will be limited to two days per week between the hours of 2:00 PM and 8:00 PM at each location and to a maximum of 100 participants.

H. Results of market research where competitors' products are being used may not be used in advertising.

I. Failure to follow this regulation could result in the loss of the ability to conduct marketing research pursuant to this regulation.

Regulation 47-318. Owner-Manager.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(B), 44-3-202(2)(a)(I)(J), and 44-3-202(a)(I)(R), C.R.S. The purpose of this regulation is to define the difference between a licensee/owner and a manager, and to clarify the allowable method of payment to the manager.

A. Each license under the Colorado Liquor or Beer Codes must be held by the owner of the establishment. "Owner" means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from operation or sale of the establishment.

In determining who is the "owner", elements considered other than risk of loss and opportunity for profit will include, but are not limited to: who has the right of possession of the licensed premises, who controls the licensee, who guarantees its debts, who is beneficiary under its insurance policies, who acknowledges liability for federal, state or local taxes.

B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. In such cases, (except through an I.R.S. qualified retirement account), the financial interests of the manager(s) must be reported on the forms prescribed by the Division. The manager may be required to complete an individual history report and be subject to a background check. A license may not be held in the name of the manager.

C. A spouse of a licensee may hold a license in their own right if they are the owner of the licensed establishment, regardless of whether they file separate or joint income tax returns.

D. A partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a corporation which is licensed, constitutes ownership.

Regulation 47-319. Liquor-Licensed Drugstore Manager Permit.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(B), 44-3-202(2)(a)(I)(R), 44-3-410(6), and 44-3-427, C.R.S. The purpose of this regulation is to provide guidance and clarity to licensees regarding statutory requirements found in sections 44-3-410(6) and 44-3-427, C.R.S. involving manager's permits and when a permitted manager is required.

A. A liquor-licensed drugstore permitted manager is a person who has been designated by the licensee as a person who is in actual control of the liquor-licensed drugstore's alcohol beverage operations, including purchases of alcohol beverages from a licensed wholesaler in accordance with sections 44-3-410(6) and 44-3-427(1), C.R.S.

B. A liquor-licensed drugstore shall have a permitted manager on duty and working on the licensed premises during all hours of operation.

C. A liquor-licensed drugstore licensee must submit an application for each permitted manager with the Division on forms approved by the State Licensing Authority. The manager permit is an annual permit that is renewed every year.

D. All liquor-licensed drugstore alcohol orders shall only be made by a person who has a valid manager permit pursuant to section 44-3-427, C.R.S.

Regulation 47-320. Signs and Interior Displays.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(H), 44-3-202(2)(a)(I)(R), and 44-3-308, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited sign and display practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

A. For purposes of this regulation, "signs" shall mean any visual message intended for the consumer that is located within, or on the exterior of, licensed premises for the purpose of displaying advertising messages or other information related to alcohol beverage suppliers or their products.

B. A supplier's signs, illuminated or otherwise, that may be provided free of charge to a licensed retailer, shall be composed of any standard, pre-manufactured material such as paper, plastic, glass (including mirrored glass), cloth, metal, or programmable electronic components, and shall have no other utilitarian value. Murals and other permanently installed works of art that are not comprised of pre-manufactured materials may not be provided to a licensed retailer free of charge, but must be paid for by the retailer at a price not less than the suppliers' actual cost.

C. The term "displays within such premises," hereinafter referred to as "interior displays," shall mean all non-refrigerated racks, bins, barrels, casks, shelving, or similar items, the primary function of which is to hold, shelve, or display alcohol beverages within retail premises.

D. A supplier's standard interior display that may be provided free of charge to a licensed retailer, shall have no other utilitarian value other than that of being purely for display purposes. Any interior display containing any property other than that authorized in paragraph C above, may not be given or loaned to a licensed retailer, but must be sold at a price not less than the supplier's actual cost.

E. Advertising statements on signs and interior displays that are permitted to be provided free of charge to a retailer, shall primarily consist of a supplier's name, brand name, trade name, or trademarks; words or phrases, such as “on tap,” “on draft,” “in bottles,” “in cans,” “beverages,” “beverage department,” “ice cold,” “take home,” and similar copy; and words or phrases such as “delicious with (specifically named food or food products or food generally)” and similar statements relating alcohol beverages to food and constituting a part of the supplier's standard advertising. Permitted language may also include a retailer's name and address, the retailer-established selling price of alcohol beverages, and retailer-specific promotional announcements, provided that the sign or interior display, in its totality, primarily advertise the supplier or its products.

F. No supplier shall directly or indirectly pay to any retailer, and no retailer shall accept, any value or consideration in connection with, or for the right or privilege of, installing or maintaining any sign or interior display on, or in, or relating to, a retailer's licensed premises.

G. Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44, and related regulations, and such organization does not otherwise hold a retail license pursuant to articles 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

Regulation 47-321. Bona Fide Loyalty or Rewards Programs – Discontinued Sales – Close-Out Sales.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(O), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to clarify how applicable licensees may sell alcohol beverages below cost under limited statutory exceptions.

A. A retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., shall not sell alcohol beverages to consumers at a price that is below the retailer’s cost, as listed on the invoice, unless the sale is of discontinued or close-out alcohol beverages. For purposes of this subsection:

1. “Discontinued” means when a manufacturer or importer discontinues the production, importation, or market availability of a specific alcohol beverage product. A retailer’s decision to stop making available the alcohol beverage product for purchase by a consumer does not qualify as a discontinued product.

2. To qualify as a “close-out” sale, the following conditions must be satisfied:

a. The close-out sale must include and liquidate, by sale or destruction, all of the retailer’s current inventory of a specific alcohol beverage product as of the date the close-out sale begins.

b. The retailer is prohibited from selling the specific alcohol beverage product that was involved in the close-out sale at a price below cost for a period of two (2) years commencing on the date the last item included in the close-out sale is liquidated.

B. A retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., shall not be prohibited from operating a bona fide loyalty or rewards program for alcohol beverages the retailer is licensed to sell so long as the price for the product is not below the retailer’s costs as listed on the invoice. For purposes of subsections (B) and (C) of this regulation:

1. "Bona fide loyalty program" means a structured program used by a retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., to encourage participants to continue to shop at the retailer's licensed business by allowing participants access to special pricing on products by virtue of being a member of the bona fide loyalty program.

2. "Bona fide rewards program" means a structured program used by a retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., to encourage participants to continue to shop at the retailer's licensed business by allowing participants to accrue program benefits, in the form of points or other accrual-based methods of reward, through the purchase of alcohol beverages, to be redeemed in the form of a discount upon a subsequent sales transaction on alcohol beverage products only.

3. "Retailer's cost" means the actual proportionate invoice price charged by the wholesaler, per item, including applicable state and federal taxes. All invoices must clearly designate a price paid for each product, which shall not be less than the wholesaler's laid-in cost for each product.

4. "Price" means the amount an alcohol beverage product is listed for sale to consumers by the retailer, before applicable taxes, and before application of bona fide loyalty or rewards program benefits in the form of a discount.

5. A supplier shall not provide to a retailer, and a retailer shall not accept from a supplier, any financial assistance in connection with a bona fide loyalty or rewards program.

6. Bona fide rewards program benefits shall be structured so that both the accrual and redemption of benefits is applied without discrimination across all brands and labels of alcohol beverages. However, bona fide rewards program benefits may differentiate in accrual and redemption rate for classes of alcohol products (beer, wine, spirits).

C. A retailer described in subsection (B) of this regulation shall maintain and make available those business records regarding all bona fide loyalty or rewards program transactions consistent with Regulation 47-700, 1 C.C.R. 203-2. A retailer described in subsection (B) of this regulation must maintain, at a minimum, the following records regarding its bona fide loyalty or rewards program:

1. Documentation regarding the value of loyalty or rewards program benefits and how those benefits may be accrued and redeemed by participants;

2. Documentation showing the loyalty or rewards program benefits actually accrued and redeemed by each participant, organized by a unique customer identification number assigned to each participant;

3. Invoices showing the retailer's cost of the individual alcohol beverage product to which any consumer loyalty or rewards benefit was applied or redeemed; and

4. Receipts for every alcohol beverage sale to which loyalty or rewards program benefits are redeemed, showing the price for every alcohol beverage and the amount of such benefits.

Regulation 47-322. Unfair Trade Practices and Competition.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-102, 44-3-103, 44-3-201(1), 44-3-202(1)(b), 44-3-202(2)(a), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44- 3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(R), 44-3-308, and 44-4-102, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited trade practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

Suppliers and their agents or employees may not attempt to control a retail licensee's product purchase selection by engaging in unfair trade practices or competition.

Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44 and related regulations, and such organization does not otherwise hold a retail license pursuant to article 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

Retailers may not accept any prohibited financial assistance as described herein, and suppliers are prohibited from directly or indirectly engaging in the following unfair practices:

A. Sales of alcohol beverages.

1. No vinous or spirituous liquor may be sold by a vinous or spirituous liquor manufacturer or wholesaler to a retail licensee below the laid-in cost of said vinous and spirituous liquor products.

2. No malt liquors or fermented malt beverages may be sold by a malt liquor/beverage manufacturer or wholesaler to a retail licensee below the laid-in cost of said malt liquor/beverage products.

3. Product cost per case will be determined utilizing a “Last In/First Out” basis unless a supplier has adequate records to verify that the actual cost of said products was less than the most recent shipment received.

4. A wholesaler's laid-in cost is defined as the actual proportionate invoice price and freight charge to that wholesaler or distributor, plus applicable state and federal taxes of any given product. An in-state manufacturer's laid-in cost is defined as the actual costs of the manufacturer, plus applicable state and federal taxes.

5. Certain sales of alcohol beverages below cost are not designed or intended to influence or control a retailer's product selection. The following exceptions to below cost product sales are therefore permitted:

   a. Product lines that will be discontinued by a supplier for a minimum of at least one year may be sold below cost at market value.

   b. A wholesaler's aged inventory of vinous and spirituous liquors for which the current market value has fallen substantially below the wholesaler's original purchase cost, after a period of twelve (12) months, and for which a recovery of the original cost through an increase in market value is unlikely. For aged inventories sold to retailers below their cost due to market-below-cost conditions, wholesaler's shall maintain the following records for a minimum of three years:

      i. Original purchase invoice.

ii. Aged inventory schedule verifying slow sales and drop in market value.

iii. Other factors that had an effect on a decrease in market value (e.g. overproduction, poor media critique).

c. Products for use, but not for resale by the drink, by a non-profit organization or similar group, as defined in section 44-5-102, C.R.S., on a retailer's licensed premises, may be invoiced to a retailer at no cost. The invoice for said products must detail the products provided and the group for whose benefit it is provided. At the conclusion of the organization's event any unused product must be returned to the wholesaler, brew pub, distillery pub, or vintner's restaurant, or invoiced at a minimum of laid in cost to the retailer.

6. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 3 or 4 of title 44, may offer product discounts to licensed retailers that meet the requirements of paragraph A, and the following additional conditions:

a. “Product Discount” shall mean a price reduction negotiated between supplier and retailer before the sale and delivery of alcohol beverage products, and where a description of the products subject to discount, and the dollar amount of the discount, is finalized and recorded in the supplier's sales records.

b. Discount programs are not subject to time limitations, and any discount program that will affect more than a single sales transaction and sales invoice are permitted, provided that no invoice, by itself, reflects a zero cost or below-cost sale.

c. Product discounts that are conditioned upon a retailer's commitment to prominently display the supplier's products are prohibited.

7. Any rebate, whereby a monetary value is returned by a supplier to a retailer, in cash, account credit, or free goods, as a reward or compensation for meeting a pre-specified purchase goal, is prohibited.

8. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 3 or 4 of title 44, may offer account credits to licensed retailers under the following conditions:

a. Any account credit offered on previously issued sales invoices must be in direct relation to previous product purchases, lawful returns pursuant to this regulation or other legitimate commercial transactions as authorized under articles 3 or 4 of title 44, C.R.S. and related regulations.

b. Credits that cannot be connected with authorized business transactions, as described herein, will be considered unlawful financial assistance, and are therefore prohibited.

c. Both the seller and retail licensee shall maintain copies of sales invoices and evidence of payment related to the transactions described in this section, in accordance with 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700.

9. Wholesaler invoices provided to retail liquor store, fermented malt beverage off-premises, and liquor licensed drugstore licensees must clearly designate a price paid for each product, which shall not be less than the wholesaler's laid-in cost of each product. At no point may a retail liquor store, fermented malt beverage off-premises, or liquor licensed drugstore licensee receive any products from a wholesaler at less than laid-in cost.

B. On-site sales promotions

1. Suppliers may conduct an on-site product sales promotion at a retailer's licensed premises subject to the following conditions:

   a. Free goods of any value may be provided to the public, provided that a supplier's representative or authorized agent, who is not the retailer or a retail employee/agent, is physically present to award free goods to the public. Suppliers shall not require a customer purchase in order for the customer to receive the free goods.

   b. If only consumer advertising specialties, as described in Regulation 47-316(A), are to be provided at the promotion, neither suppliers or their agents need be present for their distribution.

   c. Suppliers are prohibited from providing anything other than the items specified in Regulation 47-316(A) to retailers or their employees at on-site product sales promotions.

   d. Suppliers may provide or pay for any media announcement of an on-site product sales promotion that primarily advertises the product, the location, and the date and time of the promotion. The name of the retail outlet may also be mentioned.

   e. Retailers may at their own cost advertise in advance a supplier's product sales promotion.

   f. No supplier may require that a retailer change its product selection as a condition of conducting a product sales promotion. Retailers may at their option change their product selection in support of a product sales promotion.

   g. Competitors' products may not be excluded during a product sales promotion.

2. On-Premises Sampling. A supplier-sponsored consumer sampling of alcohol beverages may be held at a retailer's premises licensed for on-premises consumption for the purpose of product sales promotion under the following conditions:

   a. A supplier-sponsored consumer sampling held at the licensed premises of a retailer licensed for on-premises consumption shall include only the alcohol beverages the retailer is licensed to sell.

   b. The supplier shall only offer its alcohol beverage product to consumers during a supplier-sponsored consumer sampling.

   c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the sampling.

   d. Product used for sampling must be invoiced by the supplier, who is authorized to sell the alcohol beverages to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.

e. If all product listed in the sales invoice is consumed as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.

f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.

g. The supplier must be present and shall be the person who provides the sample to a consumer who is twenty-one (21) years of age or older.

h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer sampling that primarily advertises the product, the location, and the date and time of the sampling. The name of the retail outlet may also be mentioned.

3. Off-Premises Giveaway. A supplier-sponsored consumer giveaway of sealed malt liquor or fermented malt beverages may be held at a retailer's premises licensed for off-premises consumption for the purpose of product sales promotion under the following conditions:

a. A supplier-sponsored consumer giveaway held at the licensed premises of a retailer licensed for off-premises consumption is limited to either sealed malt liquor or fermented malt beverages, whichever the retailer is licensed to sell.

b. The supplier shall only offer its malt liquor or fermented malt beverages product to consumers during a supplier-sponsored consumer giveaway.

c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the giveaway.

d. Product used for the giveaway must be invoiced by a supplier, who is authorized to sell malt liquor or fermented malt beverage to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.

e. If all product listed in the sales invoice is given away as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.

f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.

g. The supplier must be present and shall be the person who gives the sealed container to consumers. The supplier must verify that each consumer is of lawful age prior to giving away the sealed container.

h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer giveaway that primarily advertises the product, the location, and the date and time of the giveaway. The name of the retail outlet may also be mentioned.

i. The maximum amount of malt liquor or fermented malt beverages given to each consumer shall not exceed twenty-six (26) ounces.

C. Sponsored events: Lawful Advertising

1. Suppliers may provide sponsorship fees to advertise at charitable or civic events that are temporary in nature, where the supplier's sponsorship fee affords the supplier exclusive signage rights at the retail premises, and where sponsorship proceeds are received directly by the charity or civic endeavor, and not by a licensed retailer.

2. Suppliers may provide a sponsorship fee to advertise in ballparks, resorts, racetracks, stadiums, concert venues or entertainment districts as long as such sponsorship fee is not paid to a person or entity holding a retail license at such venue, directly or indirectly, and is not intended to influence the product selection of such retailer. The retailer's product selection for the event may not change as a condition of the event sponsorship and the products of the supplier's competitors may not be excluded.

3. Suppliers may provide or pay for any media announcement of a sponsored event that primarily advertises the product, the location, and the date and time of the event. The name of the retail outlet may also be mentioned.

4. Suppliers providing sponsorship fees to advertise at the aforementioned venues may also provide those items and services authorized under regulations 47-316, 47-320, and 47-322 to the licensed retailers at, or in conjunction with, the sponsored event.

D. Retailer entertainment

Suppliers may provide food, beverages, entertainment, recreation, or the costs associated with the same, to a retailer and its employees at meetings, social events, conferences, trainings, or other similar events, subject to the following:

1. Food, beverages, entertainment, or recreation are provided when, and where, suppliers or supplier representatives are participating or present.

2. Entertainment may include tickets or admission fees for athletic or sporting events, concerts, artistic performances, festivals, and similar forms of entertainment.

3. Recreation may include fees associated with participation in athletic or sports-related activities.

4. For any supplier-provided retailer entertainment, the supplier is prohibited from providing the costs associated with lodging and travel, other than nominal ground transportation.

5. Suppliers must maintain records sufficient to verify those entertainment expenses associated with retailers and their employees. Failure to maintain such records shall not be a per se violation of this regulation, but could constitute a violation of section 44-3-701, C.R.S. or Regulation 47-700.

E. Alcohol Beverage Samples for Retailers

1. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for on-premises under the following conditions:

   a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.

b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.

c. The retailer has not purchased the product SKU of the alcohol beverage offered as a sample within the previous six (6) months.

d. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack, or 72-ounce equivalent, per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.

e. Only the retailer and its employees are authorized to taste or test those alcohol beverages given as samples, as provided herein. Nothing shall authorize a retailer to sell any samples provided or to use such the same for consumer tastings.

2. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for off-premises under the following conditions:

a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.

b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.

c. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.

d. The wholesaler is present at the time of consumption and maintains sole possession of the container after sampling. Samples, in the quantities described herein, may be left in the retailer's possession if the container seal is left intact, but must be removed from the licensed premises at the end of the day.

F. Wholesaler Trade Shows and Trade Events

1. For purposes of this Regulation 47-322(F):

a. “Trade show” means an event to which more than fourteen (14) authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.

b. "Trade event" means an event to which fourteen (14) or fewer authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.

c. "Hosting on-premises retailer" means a retailer licensed for on- premises consumption on whose licensed premises a trade show or trade event is held.

d. "Authorized attendees" means, and shall be limited to:

i. Officers, directors, and employees of a retail licensee that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event;

ii. Other individuals affiliated with one or more retail licensees as independent consultants or experts; and

iii. No more than one adult guest of each individual authorized to attend the trade show or trade event under subparagraphs (d)(i)-(ii).

2. Trade shows or trade events are subject to the following requirements and limitations:

a. A trade show or trade event shall take place only with the permission of, and on the licensed premises of, a hosting on-premises retailer that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event.

b. A trade show or trade event shall not be open to the general public, and shall be limited to authorized attendees registered (either in advance or at the door). The wholesaler(s) participating in the trade show or trade event shall maintain registration records containing, at a minimum, the date of the trade show or trade event, the name of the hosting on-premises retailer, the name of each authorized attendee who attended the trade show or trade event, and the name of the licensed retailer(s) with which each authorized attendee is associated. The registration records from the trade show or trade event shall be available for inspection by the Division during the trade show or trade event and shall be provided to the Division within ten (10) days of the conclusion of the trade show or trade event.

c. By agreement, the participating wholesaler(s), the hosting on-premises retailer or both (including such entities' agents and employees) may serve samples of alcohol beverage product(s) to authorized attendees during a trade show or trade event. Such samples shall be provided to authorized attendees free of charge.

i. The entity or entities responsible for the serving of the alcohol beverage products during a trade show or trade event shall be responsible for any violations of the Liquor Code, Beer Code, or Special Event Code, and/or any regulation promulgated pursuant thereto, related to the serving of alcohol beverage products during a trade show or trade event, including, but not limited to, violations related to service of alcohol beverages to a visibly intoxicated person or to a person under twenty-one years of age.

d. Alcohol beverage products used for a trade show or trade event must comply with all applicable product registration and labeling requirements, including those set forth in Regulation 47-904(F) and (G).

e. All taxes, fees and surcharges required by section 44-3-503, C.R.S., must be paid for all alcohol beverage products used in a trade show or trade event.

f. Invoices for alcohol beverage products used for a trade show or trade event must be clearly labeled as a "No-Cost Trade Show/Event Inventory Record" and shall be subject to the following requirements:

i. Any wholesaler participating in a trade show or trade event must invoice any alcohol beverage products to be used in the trade show or trade event to the hosting on-premises retailer. Notwithstanding any other rule or regulation to the contrary contained in 1 CCR 203-2, the wholesaler shall invoice the hosting on-premises retailer for alcohol beverage products to be used in a trade show or trade event at no cost.

ii. The hosting on-premises retailer must receive all wholesalers' invoice(s) for alcohol beverage products to be used in the trade show or trade event prior to the commencement of the trade show or trade event, and shall retain such invoice(s) for their records.

iii. Any wholesaler(s) participating in a trade show or trade event shall provide the Division with copies of all invoice(s) to be issued in accordance with this paragraph (F)(2)(f) as an accounting for all the alcohol beverage products intended to be used during the trade show, and the anticipated drop-off and pick-up dates for such alcohol product, at least three (3) days prior to the commencement of the trade show.

iv. In order to account for unanticipated changes in the alcohol beverage products to be used during a trade show or trade event, any Wholesaler(s) participating in a trade show or trade event may provide the Division with an "Amended No-cost Trade Show/Event Inventory Record" before the commencement of the scheduled trade show or trade event, provided the wholesaler(s) complied with the provisions of paragraph (F)(2)(f)(iii) of this regulation in the first instance.

v. At the conclusion of the trade show or trade event, any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) shall be removed from the hosting on-premises retailer's licensed premises by the wholesaler(s), or destroyed.

A. Any alcohol beverage product(s) invoiced for use during the trade show or trade event remaining on the hosting on-premises retailer's licensed premises at the conclusion of the trade show or trade event, and awaiting wholesaler pick-up, must be held in a secure area of the hosting on-premises retailer's licensed premises, kept separate from, and clearly labeled to distinguish such alcohol beverage product(s) from, the host on-premises retailer's stock, by affixing a copy of the most current invoice issued pursuant to paragraph (F)(2)(f)(iii), or (F)(2)(f)(iv) of this regulation, and marking such invoice with the anticipated pick-up date of the alcohol beverage product(s), which shall be no more than thirty (30) days after the conclusion of the Trade Show or Trade Event.

B. Allowing any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) to remain on the hosting on-premises retailer's licensed premises after the conclusion of the thirty (30) day pick-up window allowed for in paragraph (F)(2)(f)(v)(A) above, shall be deemed a violation of this Regulation, for which both the wholesaler(s), and hosting on-premises retail licensee shall be responsible.

g. No delivery or exchange of alcohol beverage product(s) between a participating wholesaler and authorized buyer of same shall take place during the trade show or trade event.

h. A hosting on-premises retailer shall not be deemed to be receiving unlawful financial assistance from the wholesaler(s) participating in the trade show or trade event, so long as the hosting on-premises retailer does not directly benefit from the sale of any alcohol beverage product exhibited to or sampled by authorized attendees during the trade show or trade event.

i. All documents and information required to be provided to the Division pursuant to paragraphs (F)(2)(b) and (F)(2)(F) of this regulation, shall be provided using a method authorized by the Division (which, at the Division's discretion, may be through uploading the records to an online location specified by the Division or through electronic mail).

3. This Regulation 47-322(F) shall not apply to:

a. Events similar to those addressed in this Regulation that are organized and conducted as special events pursuant to, and in compliance with article 5 of title 44, the exemption set forth in section 44-5-108, C.R.S., provisions of article 3 of title 44 applicable to special events, and Regulations 47-1000 through 47-1022, 1 CCR 203-2.

b. Tastings conducted by a licensed winery pursuant to section 44-3-402(2), C.R.S.; by a limited winery, pursuant to section 44-3-403(2)(e), C.R.S.; by a distillery, pursuant to section 44-3-402(7), C.R.S.; by a beer wholesaler, pursuant to section 44-3-407(1)(b), C.R.S.; or as part of a wine festival permit, pursuant to section 44-3-404, C.R.S.

G. Consignment Sales and Lawful Product Returns

1. Wholesalers are prohibited from making consignment sales to retailers.

2. A consignment sale is an arrangement whereby a wholesaler invoices and delivers alcohol beverages to a retailer who is under no obligation to pay for such beverages until they are resold. Consignment sales also afford the retailer the right to return product to the wholesaler for any reason.

3. Wholesalers are permitted to accept a return of alcohol beverages previously sold to retailers for ordinary and usual commercial reasons and to provide account credit or product exchange. Such commercial reasons for return shall be limited to the following:

a. Defective products: Products qualifying under this exception are those that are upon delivery, or later become, unmarketable due to contamination or deterioration of product ingredients, leaking containers, damaged labels, or missing, damaged or compromised container seals.

b. Broken containers or short-filled containers/cases: Nothing shall prevent a retailer from making a claim for the replacement of alcohol beverages that were delivered by a wholesaler in a damaged or incomplete condition, and nothing shall prevent a wholesaler from granting credible claims.

c. Error in products delivered: Any discrepancy between a retailer's product order and the products delivered may be corrected by the wholesaler within a reasonable period after delivery.

d. Discontinued products: When a manufacturer or importer discontinues the production, importation, or market availability of a product, a retailer may return any remaining product to the original wholesaler. A retailer's decision to discontinue a product does not qualify.

e. Manufacturer's product change: When a manufacturer has changed the formula, proof, label or container of an alcohol beverage, wholesalers may withdraw the product from the retailer's inventory and replace it with the newly-manufactured product.

f. Manufacturer's quality standards: To ensure freshness standards for malt liquor and fermented malt beverages, wholesalers may withdraw product from the retailer's inventory and replace it with new product, without additional charge, under the following conditions:

I. Out of freshness standard is defined as: a product that has a pre-printed freshness date on the alcohol beverage container that is no more than thirty (30) days away from the current date.

iI. The product to be withdrawn is undamaged and in its original packaging.

iii. The retailer purchased the original product from the wholesaler providing the replacement, or the current wholesaler is acting as an authorized successor wholesaler.

iv. The wholesaler replaces the product with the identical product SKU, the identical quantity, and the identical package.

v. If the wholesaler can substantiate that repeated replacement of the identical type and brand is ineffective (e.g. the wholesaler has replaced the same product at least twice), the wholesaler may instead substitute a product from the same brand family that is equal in value to the original purchase.

vi. If a seasonal product is out of the freshness standard, out of season and not available for replacement, a wholesaler may pick up the product from a retailer and replace it with a product from the same brand family that is equal or lessor in value to the original purchase.

vii. A wholesaler may sell a product to another retailer that was picked up because it was within thirty (30) days prior to the freshness date. The sale of this replaced product to another retailer can only be done once.

g. Retailer's seasonal operation: For those retailers who are only open for business a portion of the year due solely to seasonal influences, or for venues that operate only during scheduled events, a wholesaler may remove and grant credit for those products that are likely to spoil or violate a manufacturer's freshness standards.

h. Wholesalers that have lawfully exercised their claim to a retailer's inventory as secured creditors.

i. Products in a retailer's inventory that may no longer be sold due to statutory or regulatory changes or disciplinary actions over which the wholesaler and retailer had no control.

j. Within thirty days of evidence of an expiration or a lawful surrender and cancellation of a retail liquor license by the state licensing authority.

k. Holders of special events permits that have unsold alcohol beverages after the licensed event.

4. A return of product for the following reasons does not qualify as a return for ordinary and usual commercial reasons:

a. A retailer's overstocked inventory or slow-moving products.

b. Products for which there is only a limited-time or seasonal demand, such as holiday decanters or seasonal brands.

H. Warehousing of products for a retailer

Wholesalers shall not furnish free warehousing to retailers by delaying delivery of alcohol beverages beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended pursuant to 44-3-202(2)(b), C.R.S.

I. Product resets

Resets by a supplier are permitted, but a competitor's alcohol beverage products may not be disturbed during the reset process, unless the in-state seller of the competing products has been given 72 hours written notice, during normal and customary business hours, and is not present at the time designated for the reset activity. Suppliers may furnish a retailer with a recommended shelf plan or shelf schematic.

J. Equipment rentals

All equipment rentals by a supplier to a retailer must be at fair market value.

K. Other goods

Suppliers may not provide a retailer with any other goods below fair market value except those items expressly permitted by articles 3, 4, or 5 of title 44, C.R.S, and related regulations.

When a supplier also deals in items of commerce that are not regulated by articles 3, 4, or 5 of title 44, only the following restrictions shall apply:

1. The unregulated item(s) may not be on the same invoice as the alcohol beverages sold.

2. The unregulated item(s) may not be provided as an inducement, or require purchase of alcohol beverages.

3. Any equipment or other goods provided free of charge (e.g. energy drink refrigerated coolers) shall not be provided in conjunction with alcohol sales or promotions.

L. Indirect financial assistance through third party arrangements

1. A supplier's furnishing of any equipment, supplies, services, money, or other things of value to a third party that is not licensed pursuant to article 3 or 4 of title 44, C.R.S. where the benefits resulting from such things of value flow to individual licensed retailers through written agreements or otherwise, is prohibited.

2. A supplier will not be in violation of this regulation when the unlicensed third party provides the prohibited item or service to a retailer without the supplier's knowledge, and the supplier could not have reasonably foreseen that the item or service would flow to a retailer.

3. Retailers that collude with unlicensed third parties to obtain prohibited financial assistance through a third party arrangement between a third party and a licensed supplier shall be in violation of this regulation.

4. It shall not be a violation for a supplier to furnish items or services to a retailer that are otherwise specifically authorized by regulation or any provision within articles 3 or 4 of title 44, C.R.S.

M. Value of Labor

1. Definitions for purposes of this subsection (L):

a. “Deliver” or “delivering” is the act of a supplier bringing and unloading its alcohol beverage product from its delivery vehicle onto the retailer’s licensed premises or permitted retail warehouse storage location. “Deliver” or “delivering” does not include a supplier bringing and unloading its alcohol beverage product from a permitted retail warehouse storage location to a retailer’s licensed premises.

b. “Merchandise” or “merchandising” is the act of organizing, constructing, maintaining, or stocking a display of alcohol beverage product or alcohol beverage product promotional materials, including alcohol beverage product signs, consumer advertising specialties, or point-of-sale advertising, within the retailer’s licensed premises.

c. “Price stamp” or “price stamping” is the act of affixing the retail price of alcohol beverage product to its respective shelf, refrigerator, or any other similar location within the retailer’s licensed premises.

d. “Rotate” or “rotating” is the act of moving alcohol beverage product from the rear to the front of any shelf, refrigerator, or similar location within the retailer’s licensed premises.

e. “Service” or “servicing” is the act of replacing, staging, and/or tapping kegs within a retail premises. “Service” or “servicing” also includes performing necessary cleaning of alcohol beverage dispensing equipment, to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.

f. "Stock" or "stocking" is the act of placing or replenishing alcohol beverage product on any shelf, refrigerator, or similar location within the retailer's licensed premises.

2. In a supplier's sole discretion, and if allowed by the retailer, a supplier may deliver, merchandise, price stamp, rotate, service, and stock its alcohol beverage product on the retailer's licensed premises at no cost to the retailer.

a. A supplier is prohibited from materially disturbing another supplier's alcohol beverage product while delivering, merchandising, price stamping, rotating, servicing, or stocking its own alcohol beverage product.

b. A supplier may only service the portion of the retailer's alcohol beverage dispensing equipment used for dispensing its alcohol beverage product.

3. A retailer is prohibited from requiring a supplier to provide any labor to the retailer, including, but not limited to, merchandising, price stamping, rotating, servicing, or stocking activities, as an express or implied condition of the delivery, purchase, or future purchases between the supplier and retailer.

4. Unless otherwise permitted under this Regulation, the Liquor Code, or the Beer Code, or unless the retailer pays the supplier at the normal hourly rate of the employee performing the labor, a supplier is prohibited from providing to a retailer, and a retailer is prohibited from accepting from a supplier, any labor other than the kinds of labor described in subsection (L)(2) of this Regulation, including, but not limited to:

a. Cleaning, repairing, or otherwise maintaining the interior or exterior of a retailer's premises;

b. Operating the retailer's powered mechanical equipment, other than pallet jacks; or

c. Performing inventory for the retailer's records.

N. Prohibition.

1. Except as otherwise provided by the Colorado Liquor Code, Colorado Beer Code, or Colorado Liquor Rules, a supplier is prohibited from disturbing another supplier's alcohol beverage product.

Regulation 47-322(A)(9) is effective July 1, 2019.

Regulation 47-323. Lawful Extension of Credit.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), and 44-3-202(2)(b), C.R.S. The purpose of this regulation is to reinforce federal regulations and establish certain permitted and prohibited credit extension practices between suppliers and retailers.

A. Definitions: For purposes of this regulation, the following definitions are applicable:

1. "Supplying licensee" means those persons authorized pursuant to articles 3 and 4 of title 44, C.R.S. to sell fermented malt beverage, malt liquor, vinous liquor, and spirituous liquors to licensed retailers.

2. "Retailer" means those persons licensed pursuant to sections 44-3-401(1)(h) – (t) and (v) – (w) and 44-4-104(1)(c), C.R.S. to sell alcohol beverages to the end consumer. Except the term "retailer" as used in this regulation shall not include a liquor-licensed drugstore that receives a license after January 1, 2017, which shall not purchase alcohol beverage on credit or accept an offer or extension of credit from a licensee and shall effect payment upon delivery of the alcohol beverage pursuant to section 44-3-410(2)(b), C.R.S.

3. "Cash" means United States currency.

4. "Cash equivalent" means a financial transaction or negotiable instrument other than cash, including: bank drafts (business or personal check, cashier's check, certified check) money order, any other type of completed electronic funds transfer, or a supplying licensee's lawfully-issued credit to a retailer's account. Nothing in this regulation shall require a supplying licensee to make available all of the aforementioned types of cash equivalent.

5. "Alcohol beverage purchase" means the date upon which the alcohol beverage is delivered to the retailer and the retailer takes possession.

B. Transaction Requirements and Restrictions:

1. Regarding retailers' alcohol beverage purchases on credit, supplying licensees are prohibited from extending credit to any retailer for a period in excess of thirty (30) days.

2. A supplying licensee's delivery of alcohol beverages to a retailer must be accompanied by a sales invoice that shows the name of the retailer, the place of delivery (address of the licensed location), the invoice date, the date of delivery, a full description of the alcohol beverages delivered and accepted, a full description of any items on backorder to be delivered on a different date, and the price and terms of sale.

3. If there are discrepancies between the product described in the original sales invoice and the actual delivery, handwritten amendments shall be made to the invoice to reflect any corrections and shall be initialed by an authorized representative of the retailer or supplying licensee. Invoiced product that will be delivered on another date must be re-invoiced by the supplying licensee to reflect the date upon which the actual delivery took place.

4. Where there is lawful ownership of multiple, separately-licensed retail locations, each location must be considered separate and distinct with respect to alcohol beverage purchases. Therefore, a supplying licensee shall consider each location as separate and distinct for the purpose of extending credit. For retailers holding a resort complex or a campus liquor complex class of hotel and restaurant license, all related facilities within the resort complex or the campus liquor complex must be considered as a single location for the purpose of extending credit.

C. Calculation of Lawful Credit Period:

1. The lawful credit period is thirty (30) calendar days.

2. For the purpose of determining compliance with this regulation, the credit period shall commence on the alcohol beverage purchase and conclude on the date of full legal discharge from all indebtedness arising from the sales transaction related to the delivery, except as otherwise provided in paragraph G of this regulation.

3. If the final day of the lawful credit period falls on a Saturday, Sunday, or legal holiday, the final day shall be the next business day.

4. For the purpose of calculating the lawful credit period only, a retailer's acceptance of an alcohol beverage delivery and sales invoice verifying the delivery is a per se acceptance of the delivery and sales terms.

5. Errors and refusals of delivered product must be noted on either licensee's copy of the sales invoice by an authorized representative of either licensee.

D. Required Payment During Lawful Credit Period:

1. A retailer's payment on a supplying licensee's credit sale shall be recognized as the earlier of:

   a. The date the payment is deposited by the supplying licensee, or

   b. The date the transaction is recorded in the licensee's accounting records, or

   c. The date the supplying licensee or its authorized representative receives the retailer's payment in person, or

   d. The date a retailer can reasonably verify, through its own books and records, tender of payment to a supplying licensee. In order to ensure compliance with this regulation, retailers must make available to the supplying licensee, upon their request, those records that verify the date of tender.

2. The following shall not be considered a lawful discharge of indebtedness for the purpose of advancing any additional credit to a retailer:

   a. Business or personal checks that are returned to the supplying licensee as unpaid if replacement funds are not tendered within the lawful credit period.

   b. Dispute claims filed by a retailer to a credit card provider for credit card advances it had previously authorized for product delivery, except as otherwise provided in paragraph G of this regulation.

   c. A compromise of indebtedness between supplying licensee and retailer that is commercially unreasonable.

   d. An assignment of a supplying licensee's accounts receivable for third party collection, when the discharge of indebtedness is dependent upon collection from the retailer.

   e. The supplying licensee's temporary credit to a retailer's account, thereby providing the appearance that a retailer is eligible for additional credit.

E. Indebtedness Beyond the Lawful Credit Period:

1. Any supplying licensee that has not received full payment on a sales invoice on or before the conclusion of the 30 day lawful credit period, as calculated pursuant to paragraph D of this regulation, has not engaged in a per se violation of this regulation, but is prohibited from extending additional credit to the indebted retailer.

2. A supplying licensee shall not advance any additional credit to the indebted retailer until the past due indebtedness is fully discharged.

3. A supplying licensee may continue to sell alcohol beverage products to the indebted retailer only if cash or cash equivalent is provided at the time of each additional delivery.

4. A supplying licensee's normal and customary business practice related to the assessment of finance charges on credit balances that exceed 30 days is not a per se violation of this regulation.

F. Record Keeping Requirements for Supplying Licensees:

1. Pursuant to Section 44-3-701, C.R.S., licensees shall keep and maintain business records necessary to fully show the business transactions of such licensee. The following additional minimum requirements shall be met in order to demonstrate compliance with this regulation.

a. Before a supplying licensee extends credit to a retailer, it shall review the credit status of the retailer's account to determine whether any unpaid balance remains on a credit sale that is beyond the lawful credit period for such sale. The supplying licensee shall develop a procedure that documents this credit verification process, and shall be obligated to demonstrate compliance upon any review by the state licensing authority.

b. The supplying licensee shall maintain sufficient records that verify the commencement of the lawful credit period.

c. A supplying licensee that extends credit to retailers shall develop a method of verifying and documenting the date(s) of payment, and the final discharge of indebtedness of each sales invoice if it recognizes a payment date sooner than the date of its final accounting entry. This may include the retention of postmarked envelopes, hand written receipt ledgers, hand written acknowledgement of receipt on the supplying licensee's copy of a sales invoice, or other accounting records developed by the supplying licensee.

d. A supplying licensee that extends credit to retailers shall keep a record of those retailers that did not discharge indebtedness within the lawful credit period, and evidence that subsequent sales were cash or cash equivalent on delivery until the indebtedness was discharged.

2. A retailer's records may supplement the supplying licensee's records in determining compliance with record keeping requirements, but shall not mitigate a supplying licensee's lack of compliance.

G. Dispute Resolution: The purpose of this section shall be solely for the purpose of determining if a supplying licensee may continue to extend credit to a retailer when transaction amounts in dispute cannot be resolved within the lawful credit period. Nothing herein shall restrict the licensees from exercising their contractual rights in civil disputes.

1. If there is a good faith dispute by a retailer as to the validity or reasonableness of the amount owed or the payment made to the supplying licensee, then the retailer shall give written notice to the supplying licensee prior to the close of the lawful credit period. The retailer shall include the disputed amount due or payment tendered, the invoice number, and a detailed reason for the dispute.

2. Upon receipt of written notification, the supplying licensee shall determine its position and respond within 15 days of the retailer's written notification. The supplying licensee may continue to extend 30 days credit on new purchases pending the resolution of the dispute, so long as the retailer has provided written notice as described in paragraph G.1., and has tendered payment for all amounts not in dispute.

3. For purposes of this regulation, the amount of a qualifying price dispute shall be calculated as the disputed price differential times the number of cases purchased. For example, if the supplying licensee invoices a case of alcohol beverage at $11.00 per case, and the retailer's records reflect a negotiated case deal of $10.00, then the amount in dispute for purposes of this regulation is calculated as $1.00 times the number of cases purchased.

4. The supplying licensee is prohibited from extending 30 days credit on new purchases if the retailer fails to claim disputes in the manner described in this section or fails to make full payment of undisputed amounts on or before the end of the lawful credit period. A retailer's action to stop or delay payment on any financial transaction does not qualify as proper written notice to a supplying licensee of a good faith dispute.

5. Once a dispute is resolved, a retailer will have 30 days to pay any amount due and/or a supplying licensee will have the same period of time to adjust its records to reflect the outcome. If the dispute resolution process is unsuccessful after good faith efforts by both parties, and any amount due would otherwise be placed for collection, the supplying licensee must cease the extension of credit to the retailer and shall conduct any future sale of alcohol beverages for cash or cash equivalent on delivery.

6. Supplying licensees and retailers shall keep sufficient records to document those disputes that are used as justification for the continued extension of credit, which would otherwise be prohibited.

H. Unlawful Financial Assistance:

1. Except as provided for in paragraph G of this regulation, a supplying licensee who continues to extend credit to a retailer who has not fully discharged indebtedness through the lawful means described in this regulation, or who fails to exercise due diligence with the requirements of this regulation, may be sanctioned by the state licensing authority for providing unlawful financial assistance to a retailer, as provided for in Section 44-3-308(1)(a), C.R.S. and related regulations.

2. Except as provided for in paragraph G of this regulation, a retailer who fails to pay the amounts due to the supplying licensee after the conclusion of the lawful credit period, and who receives further sales on credit from that supplying licensee, may be sanctioned by the state licensing authority for receipt of unlawful financial assistance from the supplying licensee, as provided for in Section 44-3-308(3)(a), C.R.S. and related regulations. Unlawful financial assistance shall inure to the retailer after the supplying licensee has made final demand for payment through written correspondence or other means of commercial debt collection and has made subsequent sales on credit.

Regulation 47-324. Concurrent Application Review.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(C), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish procedural requirements in the event an applicant with local authority approval or a local licensing authority requests the state licensing authority to conduct a concurrent application review.

A. A local licensing authority, or a license applicant with local authority approval, can request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. Local licensing authorities who permit a concurrent review will continue to independently review the applicant's license application for the purpose of establishing the reasonable requirements of the neighborhood, the suitability of the character, record and reputation of the applicant and its principals, the fitness of the applicant's premises for occupancy in compliance with the provisions of Articles 3 and Article 4 of Title 44 C.R.S., and any other provisions required for local authority determination as provided for in these articles.

B. When conducting a concurrent application review, the state licensing authority will advise the local licensing authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies, the state licensing authority will notify the local licensing authority of its conditional approval of the license application subject to the final approval by the local licensing authority. The state licensing authority will then issue the applicant's state liquor license upon receiving evidence of final approval by the local licensing authority.

C. All applications submitted for concurrent review must be accompanied by all applicable state license and application fees. Any applications that are later denied or withdrawn will allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

Regulation 47-326. Distance Restriction – Applicability and Measurement.

Basis and Purpose. The statutory authority for this regulation is includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(a)(I)(F), 44-3-202(2)(a)(I)(R), and 44-3-313(1)(d),C.R.S. The purpose of this regulation is to prohibit, with limited exceptions, the location of the licensed premises within range of a defined school in accordance with subsection 44-3-313(1)(d), C.R.S.

A. Except as provided for in this regulation, no retail license shall be issued to or held by any person where alcohol beverages are sold if the licensed premises is located within 500 feet of any public or parochial school or the principal campus of any college, university or seminary. Said distance shall be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which alcohol beverages are to be sold, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and traffic signals.

B. The restriction stated herein shall not be applicable to the following:

1. The renewal or reissuance of a license once granted, as long as the original license has not been expired for a period greater than two (2) years. However, nothing herein shall authorize the renewal of a license beyond ninety (90) days from the date of expiration. Reissuance shall mean the issuance of a new license pursuant to the requirements of section 44-3-311 and 44-3-313, C.R.S.

2. Proposed licensed premises located on land owned by a municipality.

3. Proposed licensed premises on land owned by the state.

4. Any liquor license in effect and actively doing business before any principal campus has been constructed within the prohibited area. “Actively doing business” shall mean that the licensee is engaged in the regular sale of alcohol beverages and otherwise meeting the requirements of articles 3 or 4 of title 44, C.R.S.

5. Any club-licensed premises located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution.

6. A campus liquor complex.

7. A retailer licensed pursuant to subsection 44-4-107(1)(b), C.R.S.

Regulation 47-328. Entertainment Districts.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(C), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish a mechanism for a local licensing authority to notify the state licensing authority when an entertainment district is created or modified within the local licensing authority's jurisdiction so that the state licensing authority is aware of the entertainment district and the varying local ordinances governing entertainment districts in accordance with the provisions of subsection 44-3-301(11), C.R.S.

Within fifteen (15) days of the creation of an entertainment district pursuant to section 44-3-301(11), C.R.S., a local licensing authority shall notify the state licensing authority of the entertainment district, and provide (1) a map of the entertainment district and any common consumption areas, (2) a list of licensed premises attached to any common consumption area, and (3) the hours of operation for any common consumption area and attached licensed premises. Changes to an existing entertainment district shall be reported to the state licensing authority by the local licensing authority within fifteen (15) days of such changes.

Regulation 47-400. Licensed Breweries, Distilleries, and Wineries.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to clarify that a brewery, distillery or a winery must hold a wholesaler's license in order to sell its product directly to consumers.

A. All brewers who are licensed pursuant to 44-3-402, C.R.S. and who sell their manufactured product directly to consumers for consumption of the product for either on-premises or off-premises consumption must also obtain a wholesale license, pursuant to 44-3-407, C.R.S.

B. All manufacturers who are licensed pursuant to section 44-3-402, C.R.S, who sell their product to licensed retailers must also obtain a wholesale license pursuant to section 44-3-407, C.R.S.

Regulation 47-402. Confiscated Shipments.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(E), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to define the Department of Revenue's Executive Director's authority with respect to a prohibited delivery of alcohol beverages into the state of Colorado.

All shipments or cargoes of alcohol beverages received into the state of Colorado, except those shipments or cargoes originating from a Colorado licensed supplier as shipper, or delivered to a Colorado licensed in-state supplier as consignee and subject to its order, shall be subject to confiscation, impounding or other disposal as may be determined by the State Licensing Authority.

Regulation 47-404. Foreign Trade Zones.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(K), C.R.S. The purpose of this regulation is to permit applicable stock storage in an established foreign trade zone within the state of Colorado.

Persons licensed as importers of vinous or spirituous liquors, or as importers of malt liquor or fermented malt beverages, or as non-resident manufacturers of malt liquor or fermented malt beverages, may maintain stocks of alcohol beverages in an established "foreign trade zone" in Colorado as defined in section 7-49.5-103(4), C.R.S.

Regulation 47-406. Wholesale Dealer - Importation.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(K), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to define importation requirements and define responsible parties participating in importation.

A. At the time alcohol beverages cross the Colorado state line and are imported into this state for the purpose of being sold, offered for sale or used in this state, all such alcohol beverages shall be the sole and exclusive property of, and subject to the unrestricted power of disposal of, a duly licensed Colorado wholesale dealer.

B. All shipments or importations of alcohol beverages into this state which have originated from a winery, distillery, brewery or wholesaler and which originating shipper is not duly licensed as required by the laws of Colorado relating to alcohol beverages are hereby prohibited.

C. A licensed Colorado manufacturer or wholesaler may import, for laboratory analysis or sampling only, up to twelve (12) liters per year of vinous or spirituous liquors of any one brand, or up to five (5) cases of malt liquor and fermented malt beverage per year of any one brand. Importation of alcohol beverages as provided in this subpart C need not originate from a licensed shipper or importer. All applicable excise taxes on any alcohol beverages imported into Colorado pursuant to this subpart C shall be reported and paid by the Colorado licensed manufacturer or wholesaler first receiving said alcohol beverages.

1. "Sampling" as used in this subpart C shall mean that only the employees of anyone licensed pursuant to this article shall taste or test the alcohol beverages which may be sampled as provided herein. The sale or distribution by anyone of any alcohol beverages imported pursuant to this subpart C, except as provided in this subpart C, is prohibited.

Regulation 47-407. Liquor-Licensed Drugstore

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), and 44-3-410, C.R.S. The purpose of this regulation is to clarify and establish requirements to qualify for the liquor-licensed drugstore license.

A. In addition to the requirements of Title 44, Articles 3 and Article 4 C.R.S., liquor-licensed drugstore licensees shall also comply with the requirements as set forth by Article 42.5 of Title 12 C.R.S., and the Rules and Regulations of the State Board of Pharmacy.

B. It is the intent of this regulation to require liquor-licensed drugstore licensees to maintain a bona fide pharmacy and drugstore, and not a mere pretext of such for obtaining a liquor-licensed drugstore license. Liquor-licensed drugstore licensees shall conduct and maintain a bona fide pharmacy and drugstore operation at all times as a condition for this class of license. Bona fide conditions shall include:

1. The prescription compounding area must be operational and staffed by a licensed pharmacist, fifty percent of the time, each month, during which alcohol beverages are sold or dispensed in sealed containers.

2. Prescription drugs and controlled substances are sold or dispensed pursuant to lawful prescription orders in conformance with applicable laws and rules, during all times of operation as described in B. 1. of this regulation.

C. A licensed pharmacist shall be an owner, an employee, or contract company within the premises of the licensee and all records and documents regarding the ownership and/or employment shall be made available to the State Licensing Authority or its duly authorized representatives upon demand. If utilizing a contract company to provide pharmacy services, the licensee maintains responsibility for all liquor laws and regulations.

D. Pursuant to section 44-3-410(2)(a)(II), C.R.S. a liquor-licensed drugstore may not sell malt, vinous, or spirituous liquors to consumers at a price that is below the liquor-licensed drugstore's cost to purchase the malt, vinous, or spirituous liquors. The term "a price that is below the liquor-licensed drugstore's cost" as used in this paragraph is defined as the actual proportionate invoice price charged by the wholesaler (per item), plus applicable state and federal taxes. All invoices must clearly designate a price paid for each product, which shall not be less than the wholesaler's laid-in cost for each product. At no point may a liquor-licensed drugstore receive any products from a wholesaler at less than laid-in cost.

E. Additional liquor-licensed drugstore locations:

1. After January 1, 2017, a liquor-licensed drugstore licensee may apply for additional liquor-licensed drugstore licenses as long as they meet the requirements of section 44-3-410(1)(b)(I-IV), C.R.S. The application for an additional liquor-licensed drugstore will be a single application form approved by the Division. The application process will include the transfer of ownership of at least two retail liquor stores, the change of location to the new licensed premises and the merger and conversion of a new liquor-licensed drugstore.

2. In determining the distance measurements for liquor-licensed drugstores, the measurement of either 1500 feet or 3000 feet, as applicable, is defined as the straight-line distance measured from the midpoint of the principal doorway of the proposed licensed premises (as determined by the applicants/licensees).

3. In order for a liquor-licensed drugstore to obtain additional licenses pursuant to section 44-3-410(1)(b) et al, C.R.S., the liquor-licensed drugstore must transfer ownership of at least two retail liquor stores within the same jurisdiction where the applicant premises is located and change the location of one of the retail liquor stores to the new liquor-licensed drugstore location. If there are fewer than two retail liquor stores within the jurisdiction of the applicant premises, the applicant may transfer ownership of one retail liquor store located within the same local licensing jurisdiction, if applicable, and transfer ownership of one or two other liquor stores, as applicable, both of which are located in a jurisdiction adjacent to the jurisdiction where the applicant premises is located.

4. In order to qualify to apply for an additional liquor-licensed drugstore license pursuant to section 44-3-410(1)(b) et al, C.R.S. the licensee shall provide evidence to the state and local licensing authorities that at least twenty percent of the licensee's gross annual income derived from total sales during the prior twelve months at the drugstore premises for which a new or renewal license is sought is from the sale of food items as defined by the State Licensing Authority by rule.

   "Evidence" as used in paragraph 4 is defined, at a minimum, as an affidavit from the licensee that the requirements of paragraph 4 are met. The licensee shall produce documents in support of the affidavit, if requested by the state and local licensing authorities.

5. "Food items" as used in paragraph 4 is defined as any raw, cooked, or processed edible substance, ice and beverage, other than any beverage containing alcohol, intended for use or for sale in whole or in part for human consumption.

6. Pursuant to section 44-3-410(1)(b)(IV)(B), C.R.S., a licensee of a new or renewed additional liquor-licensed drugstores must be open to the public. "Open to the public" as used in this paragraph means that the licensed premises must be open to the general public and that alcohol beverages may be purchased without any membership requirement or added cost.

F. On or after January 1, 2017, a liquor-licensed drugstore licensee shall not purchase malt, vinous or spirituous liquors from a wholesaler on credit and shall effect payment upon delivery of the alcohol beverages. Allowed payments include cash, credit/debit cards, check, money orders, certified check, EFT transfer and any other method of payment approved by the Division.

G. A liquor-licensed drugstore must obtain and maintain certification as a responsible vendor in accordance with section 44-3-1001, C.R.S. In order to comply with this regulation, the liquor-licensed drugstore licensee shall complete an on-line registration with the Liquor Enforcement Division which shall contain the following information:

1. The name of each employee who is subject to seller-server training and the date of last training class.

2. An electronic image of the certificate or card issued to each employee by a certified responsible vendor trainer evidencing completion of such training.

If the on-line registration process is not available, the liquor-licensed drugstore licensee is responsible for maintaining such information until the on-line registration process is available and shall provide such information to the state or local licensing authorities upon request.

H. Wholesalers, including brew pubs, distillery pubs, vintner's restaurants and limited wineries shall take orders for alcohol beverage sales to a liquor-licensed drugstore only from a permitted manager of such liquor-licensed-drugstore who has a valid manager's permit under section 44-3-427, C.R.S.

Regulation 47-408. Purchases by Retailers.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(O), C.R.S. The purpose of this regulation is to establish purchase requirements for retailers.

A. Every person or entity licensed under the Colorado Liquor or Beer Codes to sell at retail shall purchase all alcohol beverage stock, for the operation of its business, from a person or entity licensed to sell at wholesale pursuant to article 3 or 4 of title 44, C.R.S., except that:

1. A retailer licensed for on-premises consumption only may purchase not more than two thousand dollars' worth of such alcohol beverages during a calendar year from a retail liquor store or a liquor-licensed drugstore.

2. A retailer that is in lawful possession of alcohol beverage inventory at the time it receives approval from local and state licensing authorities to change the location of its licensed premises.

3. A retailer that is in lawful possession of alcohol beverage inventory at the time it receives approval from local and state licensing authorities to change its class of license, as long as such license authorizes the sale of that inventory.

4. A retailer that is in lawful possession of alcohol beverage inventory at the time it receives approval for an application for late license renewal from local and state licensing authorities, or upon final approval of an application for new license when a licensee was unable to renew a license due to the lapse of the lawful renewal period.

B. All alcohol beverages possessed or maintained on the retail-licensed premises shall be only such alcohol beverages acquired as set forth in this regulation, or as may have come into possession upon the issuance of a license or temporary permit pursuant to section 44-3-303, C.R.S.

C. Nothing herein shall authorize a retailer to purchase alcohol beverage stock for its licensed operations from any public or private auction.

D. Records maintained by the licensee in compliance with section 44-3-701, C.R.S. and regulation 47-700, 1 C.C.R. 203-2 shall include all records of purchases of alcohol beverages.

E. Purchases of malt liquor and fermented malt beverages by retailers including a retailer's purchase at the wholesaler's licensed location(s) must be from the wholesaler designated within the territory rights pursuant to section 44-3-407(1)(b)(I).

Regulation 47-409. Transportation of Alcohol Beverages.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to define a limited exception for transporting alcohol beverages across another licensee's licensed premises.

Notwithstanding any other rule or regulation to the contrary contained in 1 CCR 203-2, licensees located within the same building or facility, may for transportation purposes only, transport alcohol beverages across another licensee's liquor licensed premises. Nothing in this regulation shall permit a licensee or its agent to sell, serve, give, or consume its alcohol beverages off its own licensed premises.

Regulation 47-410. Retail Warehouse Storage Permit.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(K), C.R.S. The purpose of this regulation is to establish parameters and clarify circumstances under which licensed retailers may keep or store alcohol beverages in permitted warehouses and limitations on the same if the retail licensee is a liquor licensed drugstore licensed under section 44-3-410, C.R.S.

A. No alcohol beverages shall be stored or kept in or upon any premises that is not duly licensed, however, the state licensing authority may issue a warehouse storage permit, to retail licensees licensed pursuant to article 3 of title 44, C.R.S. for the storage only of permitted alcohol beverages in one but not more than three (3) locations, other than the licensed premises. The application for such permit shall specify the address of the proposed storage location and shall include documentation that the licensee is in possession of said premises by way of ownership, lease, or other arrangement.

1. For off-premises licensed retailers, alcohol beverages permitted for storage within a storage warehouse shall include vinous and spirituous liquors only.

2. For on-premises licensed retailers, alcohol beverages permitted for storage within a storage warehouse shall include fermented malt beverages and malt, vinous and spirituous liquors. However, fermented malt beverages or malt liquor stored in a permitted warehouse shall only be stored for a period not to exceed ten days after date of delivery, so as not to interfere with manufacturers' freshness standards.

3. Notwithstanding any provision of this regulation, a liquor-licensed drugstore shall not store alcohol beverages off the licensed premises and is not eligible for a retail warehouse storage permit pursuant to section 44-3-410(5)(a), C.R.S.

B. Title to all alcohol beverages, stored or kept pursuant to a warehouse storage permit shall be vested in such permit holder.

C. Alcohol beverages may not be sold or delivered to consumers from the permitted warehouse premises, however, deliveries from wholesalers may be accepted at the permitted warehouse premises.

D. Any retail licensee obtaining a warehouse storage permit, shall provide a copy of said permit to the local licensing authority and shall display such permit in a prominent place within their licensed premises and within the permitted warehouse premises.

Regulation 47-412. Wholesale Warehouse or Branch Houses.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(K), C.R.S. The purpose of this regulation is to permit a manufacturer or wholesaler to establish unlimited warehouses or branch houses for its operations, upon defined application standards.

A. Scope of this regulation:

This regulation shall apply to manufacturers of fermented malt beverages and to manufacturers and wholesalers of malt, vinous or spirituous liquors and to the establishing, locating, licensing and operation of warehouses or branch houses by such licensees.

B. Any manufacturer licensed to manufacture fermented malt beverages, malt, vinous or spirituous liquor may establish and operate as many warehouses or branch houses as such manufacturer sees fit for the sole purpose of storing, handling, selling, distributing or dealing in such fermented malt beverage or malt, vinous or spirituous liquor of its own manufacture.

C. All manufacturers and wholesalers shall apply to the state licensing authority for a permit for the location and operation of all warehouses or branch houses and in said application, said licensees shall give the exact location of the premises to be used as said warehouse or branch house, the name of the agent, manager or official in charge of such warehouse, or branch house, and such additional information so as to show that such agent, manager or officer is a fit and proper individual qualified as provided for licensees, under the respective acts under which the license is issued.

D. Upon approval of the state licensing authority, the original permit shall be retained in the office of the manufacturer or wholesaler and one copy posted in a conspicuous place in the warehouse or branch house.

E. Any wholesaler licensed to distribute malt, vinous and/or spirituous liquors may establish and operate as many warehouses or branch houses as it sees fit for the sole purpose of storing, handling, distributing or dealing in such liquors. Malt liquor wholesalers may establish one salesroom for the purpose of selling malt liquor within the wholesale licensed premises.

Regulation 47-414. Purchases by Wholesalers.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to establish purchasing requirements for a wholesaler license when purchasing alcohol beverages from a retailer.

A. Each person or entity licensed under articles 3 and article 4 of title 44, C.R.S., to sell at wholesale shall purchase all alcohol beverage stock for the operation of its business from Colorado licensed suppliers, unless otherwise provided in these articles or related regulations.

B. A person licensed to sell at wholesale, pursuant to articles 3 or 4 of title 44, C.R.S., may purchase sealed alcohol beverage stock from a licensed retailer within thirty (30) days after the expiration, or the surrender to, and cancellation by, the state or local licensing authority, of the retailer's alcohol beverage license. Any alcohol beverages purchased from a retailer pursuant to this regulation must be alcohol beverages that the wholesaler is authorized to sell and normally carries as part of its alcohol beverage stock.

Regulation 47-415. [Removed per S.B. 03-088, 26 CR 7]

Regulation 47-416. Items Approved for Sale in Retail Liquor Stores.

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this change to Regulation 47-416 is to bring the regulation into conformance with the statutory provisions of section 44-3-409(1)(b), C.R.S. concerning items a retail liquor store may sell.

A. Retail liquor stores may sell any non-alcohol products (unless prohibited by law or rule), but only if the annual gross revenues from the sale of non-alcohol products do not exceed twenty (20) percent of the retail liquor store's total annual gross revenues.

B. For purposes of calculating the annual gross revenues from the sale of non-alcohol products, sales revenues from those non-alcohol products that are excluded by statute shall not be considered.

Regulation 47-418. Restaurants.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(L), C.R.S. The purpose of this regulation is to define certain food preparation and service requirements of a restaurant licensed under section 44-3-413, C.R.S. to sell alcohol beverages.

A. Restaurants may sell alcohol beverages only for consumption on the premises, and may, but are not required to, serve such alcohol beverages with meals.

B. All restaurants shall at all times, when meals are required to be served, maintain on the premises adequate personnel, foodstuffs and other necessary facilities, equipment and supplies for the preparation and serving of meals as defined by 44-3-103(31), C.R.S., as amended. The service or sale of alcohol beverages in licensed establishments which are prepared to serve only such foods as pretzels, crackers, nuts, and other appetizers, or canned soups, packaged sandwiches or similar items which are normally only components of meals, shall be considered a violation of this regulation.

C. The service or sale of alcohol beverages in restaurants obtaining prepared meals from sources other than facilities under the exclusive management and control of the licensee shall also be considered a violation of this regulation.

D. Restaurants must be maintained in a clean and sanitary condition, and shall maintain such food service license issued by the Colorado Department of Public Health and Environment or the Denver Department of Excise and Licenses in full force and effect at all times while selling alcohol beverages for consumption therein.

E. Establishments operating as a "temporary retail establishment," "mobile retail establishment," or "pushcart" as defined in section 1-202, of 6 C.C.R. 1010-2, shall be considered not to have the necessary equipment or premises to qualify for a hotel and restaurant license.

Regulation 47-420. Minibar Container Size.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-413(5), C.R.S. The purpose of this regulation is to define the maximum size of an alcohol beverage product to be sold in a minibar.

No container of malt, vinous, or spirituous liquor which has a capacity of more than five hundred milliliters may be available for sale in a minibar.

Regulation 47-422. Arts License.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to define "production and performances of an artistic or cultural nature" required to qualify for an arts license

The words "productions and performances of an artistic or cultural nature" include all forms of theatrical and other performing arts, the display or exhibition of all forms of the visual arts, and activities conducted on the licensed premises in furtherance of the proper purposes of arts organizations. An organization otherwise complying with section 44-3-419, C.R.S. shall be deemed to be engaged in a production or performance at all times that visual art is on exhibit for viewing within the licensed premises.

Regulation 47-424. Engaging in Business.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to make clear that to engage in business with a licensed alcohol beverage wholesaler or to sell alcohol beverage stock to, or to solicit orders for alcohol beverages from, licensed alcohol beverage retailers, an entity must be duly licensed under the relevant licensing provisions of articles 3, 4, and/or 5 of Title 44, C.R.S.

No person, firm, corporation or association shall engage in the business of selling, offering to sell, using or soliciting orders for alcohol beverages from any Colorado licensed wholesaler or retailer except and unless said person, firm, corporation or association shall be a duly licensed brew pub, distillery pub, vintner's restaurant, manufacturer, wholesaler or importer as required by the laws of the State of Colorado.

Regulation 47-426. Delivery of Alcohol Beverages.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-4-107(1)(c), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-409(3), and 44-3-410(3), C.R.S. The purpose of this regulation is to permit fermented malt beverage off-premises licensees, retail liquor stores, and liquor licensed drug stores to deliver alcohol beverage products to consumers within the requirements, restrictions, and limitations outlined in the regulation in accordance with the statutory provisions under which limited retail delivery activities are authorized.

A. Delivery Permitted.

A retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., may deliver such alcohol beverages authorized by its license to any location off the licensed premises, pursuant to the following restrictions:

1. Order.

   a. The order for the alcohol beverages which are to be delivered, must be taken by the licensee or an ordering service acting as an agent of the licensee pursuant to a written agreement entered into with the licensee. Licensee shall provide a copy of said agreement to the Division prior to any orders being accepted by licensee's agent.

   b. The order may be taken by written order, by telephone, in person, or via internet communication with the licensee or its agent.

   c. The person placing the order must provide the licensee with their name, date of birth, and delivery address. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for alcohol beverages.

2. Delivery.

   a. Delivery of alcohol beverages shall only be made to a person twenty-one (21) years of age or older at the address specified in the order.

   b. Delivery must be made by the licensee or the licensee’s employee who is at least twenty-one (21) years of age and is using a vehicle owned or leased by the licensee to make the delivery.

   c. The licensee or the licensee’s employee who delivers the alcohol beverages shall note and log at the time of delivery the name and identification number, of the person the alcohol beverages are delivered to. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.

   d. A licensee must derive no more than fifty (50) percent of its gross annual revenues from total sales of alcohol beverages that the licensee delivers.

3. Licensees who deliver alcohol beverages shall maintain as a part of their required records, pursuant to 44-3-701, C.R.S., all records of delivery including delivery orders, receipt logs and journals. These records shall be maintained by the licensee for the current and three prior calendar years. Failure to maintain accurate or complete records shall be a violation of this regulation.

4. Have a licensed premises with the following conditions:

   a. Open to the public a minimum of three (3) days a week; and

   b. Open to the public a minimum of five (5) hours each day the business is open; and

   c. Have signage viewable from a public road.

5. Permit required.

   a. Effective July 1, 2019, the state licensing authority will accept complete delivery permit applications from any applicant of or retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S.

   b. Effective July 1, 2020, any retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., must hold a valid delivery permit issued by the state licensing authority to deliver alcohol beverages pursuant to the Colorado Liquor Code, the Colorado Beer Code, and this regulation.

   c. The applicant must affirm on its delivery permit application that the applicant derives or will derive no more than fifty (50) percent of its gross annual revenues from total sales of alcohol beverages that the applicant delivers. However, nothing within this subsection (A)(5)(c) shall limit the authority of the state licensing authority to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify this affirmation or compliance with this statutory requirement.

   d. A delivery permittee shall display its delivery permit at all times in a prominent place on its licensed premises. A delivery permittee shall not be required to hold or carry a copy of its delivery permit in the delivery vehicle.

   e. A delivery permit shall not be required for a retailer to deliver alcohol beverages within its customary parking area.

B. Suspension or Revocation.

   Any delivery made in violation of Title 44, Articles 3 and Article 4, or in violation of this regulation may be grounds for suspension or revocation of the licensee's license and/or delivery permit by the state licensing authority as provided for in section 44-3-601, C.R.S.

Regulation 47-428. Sales Rooms.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(T), C.R.S. The purpose of this regulation is to establish procedural requirements for sales room applicants, and provide factors the licensing authority must consider when evaluating the change for approval or rejection.

A. Any manufacturer of vinous or spirituous liquor, licensed pursuant to 44-3-402, C.R.S., a limited winery license issued pursuant to section 44-3-403, C.R.S., or beer (malt liquor) wholesaler licensed pursuant to section 44-3-407(1)(b), C.R.S., applying to operate a sales room as defined by section 44-3-103(49), shall submit an application for sales room to the state licensing authority.

B. The applicant must send a copy of the application for the sales room concurrently to the state licensing authority and to the local licensing authority in the jurisdiction in which such sales room is proposed. All applications for vinous or spirituous liquor sales rooms to be operated for no more than three (3) consecutive days shall be filed with both the local and state licensing authorities not less than ten (10) business days prior to the proposed opening date.

C. The sales room application submitted to the state licensing authority and copies of the sales room application submitted to the local licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but not limited to, email, facsimile, or certified mail.

D. The local licensing authority may submit a response to the application to the state licensing authority including its determination whether or not the approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority. The local licensing authority submission to the state licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but not limited to, email, facsimile, or certified mail.

E. For proposed sales rooms operating more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within forty-five (45) days from the date of application to the state licensing authority.

F. For proposed sales rooms operating not more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within eight (8) business days from the date of application to the state licensing authority.

G. If the state licensing authority does not receive a response from the local licensing authority within the time frame as stated in paragraph E or F, the state licensing authority shall deem that the local licensing authority does not object to the sales room according to paragraph D.

H. For additional sales rooms for vinous or spirituous liquor, the applicant must affirm to the state licensing authority that the applicant has complied with local zoning restrictions.

I. The local licensing authority can request the state licensing authority take action in accordance with section 44-3-601, C.R.S. against a licensee who operates an approved sales room if the local licensing authority:

1. Demonstrates that the licensee has engaged in an unlawful action set forth in section 44-3-901, et seq, C.R.S.

2. Shows good cause as specified in section 44-3-103(19)(a), (19)(b) (19)(d).

J. Neither the state or local licensing authority shall impose any additional fees for the processing or review of an application for a sales room

K. If a licensee that has a salesroom within its main licensed premises changes its location pursuant to Regulation 47-312, 1 C.C.R. 203-2, the licensee must apply for a new sales room license at its new location in accordance to this Regulation.

L. Sales rooms that do not sell and serve alcohol for consumption on the licensed premises are exempt from local licensing review in accordance with paragraphs B, D, E, F, and G.

Regulation 47-430. Limited Winery License – Colorado-grown Produce Annual Certification and Records – Repealed effective 12/01/2006.

Regulation 47-432. Colorado Manufacturers– Alternating Proprietor Licensed Premises.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(Q), and 44-3-402(3), 44-3-403(2)(a), and 44-3-417(1)(b), C.R.S. The purpose of this regulation is to establish a mechanism under which the State Licensing Authority will approve alternating proprietor licensed premises and the requirements for applying for and maintaining an alternating proprietor licensed premises arrangement.

A. Definitions

1. "Alternating Proprietor Licensed Premises" shall have the meaning set forth in 44-3-103(3), C.R.S. For purposes of this regulation, alternating proprietor licensed premises shall also mean that portion of the host manufacturer's licensed premises that is shared by the host manufacturer and alternating proprietors, for the manufacture of malt or vinous liquor, which is readily identified by use of placards showing the license number of the manufacturer using that area. Such shared premises may include grain storage areas, crush pads, processing tanks, bottling lines, barrel storage, and casking areas.

2. "Alternating Proprietor" or "tenant manufacturer" shall mean a manufacturer licensed pursuant to 44-4-104(1)(a), 44-3-402, 44-3-403, or 44-3-417, C.R.S. who, by way of written agreement, takes possession of a host manufacturer's licensed premises for use as an alternating proprietor licensed premises as defined in 44-3-103(3), C.R.S. and this regulation.

3. "Alternating Proprietor Agreement" shall mean a written agreement between a host manufacturer and an alternating proprietor that, at minimum, conveys possession of specific alternating proprietor licensed premises within a host manufacturer's licensed premises to specific alternating proprietors, establishes the general time frame for possession of alternating proprietor licensed premises, and the manner in which each alternating proprietor will maintain control over its manufacturing operations as an independent producer. Such agreement must be approved by the Division, and any changes, modifications, or termination of such agreement must also be reported to the Division within the time frame specified within paragraph C of this regulation.

4. "Host manufacturer" shall mean a manufacturer licensed pursuant to 44-4-104(1)(a), 44-3-402, 44-3-403, or 44-3-417, C.R.S. who, by way of written agreement, makes available a portion of its licensed premises to other manufacturers licensed pursuant to those sections, for use as an alternating proprietor licensed premises as defined in 44-3-103(3), C.R.S. and this regulation.

5. "Dedicated Premises" shall mean that portion of a manufacturer's licensed premises that is not made available to other manufacturers for use as an alternating proprietor licensed premises, and shall always include the host manufacturer's retail sales area, and/or any consumer tasting area.

B. Requirements of Alternating Proprietor Licensed Premises in Colorado Wineries, Breweries, and Brew Pubs

1. Only manufacturers licensed pursuant to 44-4-104(1)(a), 44-3-402, 44-3-403, or 44-3-417, C.R.S. for the manufacture of malt or vinous liquor are eligible to engage in alternation of licensed premises, as described in this regulation, either as a host manufacturer or tenant manufacturer (alternating proprietor).

2. A host manufacturer that elects to alternate its licensed premises may allow more than one tenant manufacturer to take possession of alternating proprietor licensed premises, pursuant to the requirements of this regulation, as long as there is no more than one tenant manufacturer per alternating proprietor licensed premises at any given time.

3. All manufacturers licensed pursuant to 44-4-104(1)(a), 44-3-402, 44-3-403, or 44-3-417, C.R.S. must maintain possession of their dedicated premises at all times pursuant to 44-3-301(3)(a), C.R.S. A host manufacturer that elects to alternate its licensed premises must maintain dedicated premises that are separate from tenant manufacturer premises. Nothing herein shall prohibit any host or tenant manufacturer from temporarily transporting its manufactured product over dedicated premises or alternating proprietor licensed premises.

4. At all times specified in the alternating proprietor agreement, a tenant manufacturer must maintain possession, title, and control over raw materials and manufacturing operations, occurring on its assigned alternating proprietor licensed premises. Nothing in this regulation authorizes joint venture operations, and the operations of each manufacturer must be separate and distinct. However, nothing herein shall prohibit a host or a tenant manufacturer from utilizing the services of another manufacturer's staff or employees, as long as such an arrangement is provided for in the alternating proprietor agreement.

5. Alternating proprietor licensed premises within host manufacturing premises must be separated in a manner that adequately distinguishes each alternating proprietor licensed premises area by use of placards, partitions, or other physical means.

6. Nothing in this regulation shall authorize a host manufacturer that is licensed solely for the production of vinous liquor, pursuant to 44-3-402 or 44-3-303, to allow any tenant manufacturer to engage in the manufacture of anything other than vinous liquor.

7. Nothing in this regulation shall authorize a host manufacturer that is licensed solely for the production of malt liquor, pursuant to 44-3-402 or 44-3-417, to allow any tenant manufacturer to engage in the manufacture of anything other than malt liquor.

8. The authorization to alternate any licensed premises may be suspended or denied by the state licensing authority due to violations of the host or tenant manufacturer.

C. Application for Alternating Proprietor Licensed Premises

1. When a host manufacturer elects to alternate its licensed premises by designating a portion of its licensed premises as alternating proprietor licensed premises, it shall file notification with the Division, within ten (10) days after alternation has commenced.

2. Notification shall be filed on forms prepared by the Division, and shall include all applicable fees, an alternating proprietor agreement, color-coded diagrams delineating those sections of the licensed premises that are to be operated as alternating proprietor licensed premises and those sections that are to remain designated premises, and the manner in which alcohol beverage stock ownership will be identified and segregated.

D. Record Keeping and Excise Tax Reporting Requirements

1. Both the host and tenant manufacturer shall maintain a record of the movement or transfer of raw materials when introduced to the alternating proprietor licensed premises, and when moved to or from fermentation.

2. Any transfer of malt or vinous liquor to or from the alternating proprietor licensed premises shall be recorded in the business records of each manufacturer.

3. All manufacturers engaged in the activities described herein must maintain control over their separate business records at all times. Whether such records are maintained on the alternating proprietor licensed premises or the dedicated premises, tenant manufacturers must provide access to all records when requested by any enforcement officer, without authorization of the host or other tenant manufacturers.

4. On or before the 20th day of each month, on forms prescribed by the department, each tenant manufacturer shall file a report of the preceding month's alternating proprietor licensed premises operations. Such report shall be filed with the Monthly Report of Excise Tax, as required by 44-3-503, C.R.S. and related regulations.

Regulation 47-500. Excise Tax Audits.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish a regular audit for brew pubs, distillery pubs, manufacturers, and wholesalers, and associated credits and liabilities consequential to this audit

The Department of Revenue shall cause each original monthly summary report to be audited.

A. If the audit reveals that the reporting brew pub, distillery pub, manufacturer or wholesaler shall have paid more tax, penalty, or interest than was actually due, the Department of Revenue shall issue to that brew pub, distillery pub, manufacturer or wholesaler a tax credit form reflecting the amount of overpayment. The brew pub, distillery pub, manufacturer or wholesaler may deduct the tax credit from any succeeding monthly report by attaching tax credit forms to the report.

B. If such audit reveals that the reporting brew pub, distillery pub, manufacturer or wholesaler shall have paid less tax, penalty, or interest than was actually due, the Department of Revenue shall issue to that brew pub, distillery pub, manufacturer or wholesaler a notice of assessment form reflecting the amount of underpayment. The brew pub, distillery pub, manufacturer or wholesaler must return the assessment form, along with the remittance, payable to the Department of Revenue.

Regulation 47-502. Excise Tax Reports.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish procedures for reporting an excise tax.

A. Resident manufacturers and wholesalers.

1. Reporting of alcohol beverages received or manufactured.

Each licensed manufacturer or wholesaler whose licensed premises are located within Colorado shall forward to the Department of Revenue on or before the 20th day of the month succeeding the month of receipt or manufacture of such alcohol beverage, a completed report. Wholesalers shall use form DR 0445 which shall include the date of receipt, supplier account number and name, invoice number, and gallons or liters received. A separate form shall be submitted for each commodity. Manufacturers shall use this form only if they are acting in a licensed wholesale capacity, and they shall include the amount of product manufactured. Manufacturers and wholesalers shall maintain upon the licensed premises, and make available for inspection by the state licensing authority or other agents of the department, documents or invoices supporting such reports.

2. Reporting and payment of excise taxes - first sold.

   Each Colorado licensed wholesaler or manufacturer shall, in addition to filing form DR 0445, also complete and file each month with the Department of Revenue form DR 0442. Form DR 0442 shall be filed on or before the 20th of the month succeeding the month reported. Payment of excise taxes due shall accompany the filing of form DR 0442.

3. Reporting and payment of excise tax - upon manufacture or receipt.

   Each Colorado licensed manufacturer or wholesaler electing this method of payment must in addition to the requirement in A.2. above, contact the Department of Revenue. The department may enter into a "memorandum of understanding" with the licensee stating that the taxes will be reported and paid upon manufacture or receipt of purchased product, rather than when the product was first sold by such licensee.

4. Reporting receipt of alcohol beverages for which excise taxes have previously been paid.

   All Colorado licensed wholesalers receiving alcohol beverages, where the excise taxes upon such alcohol beverages have already been reported and paid to the Department of Revenue by a Colorado licensed wholesaler or manufacturer, or where the liability for reporting and payment of such excise taxes has been incurred by a manufacturer or some other licensed wholesaler, shall report receipt of such alcohol beverages on form DR 0445 and shall attach invoices evidencing receipt of such.

5. Excise taxes - credits, refunds.

   a. A Colorado manufacturer who transmits outside the state and there disposes of any alcohol beverages, upon which no state excise tax has been previously paid or liability incurred, may claim exemption from the payment of excise taxes thereon by submitting form DR 0443 as well as invoices or bills of lading evidencing such disposal. A Colorado wholesaler who shall transmit outside the state and there dispose of alcohol beverages, upon which excise tax has been previously paid or liability incurred, may claim credit for such taxes for which such wholesaler may be liable on form DR 0443 and shall attach a signed and itemized delivery receipt, invoice and bill of lading from a common carrier or affidavit showing such transaction.

   b. A Colorado manufacturer or wholesaler possessing alcohol beverages upon which state excise taxes have been previously paid or liability incurred and which alcohol beverages have been rendered unsalable by reason of destruction or damage may claim exemption or credit for such taxes for which such manufacturer or wholesaler may be liable by submitting an application for credit supported by a properly executed affidavit of destruction or damage. Nothing herein shall be construed to authorize claims for credit of taxes paid on any alcohol beverages rendered unsalable by reason of spoilage.

   c. All claims for exemptions from excise taxes, or claims for credit, shall be made on forms DR 0442 and DR 0443 on or before the 20th day of the month succeeding the date of disposal. In addition, all affidavits of destruction or damage, or invoices evidencing shipment outside of Colorado shall be submitted with said forms.

B. Any manufacturer or wholesaler may, in lieu of forms required in this regulation, forward a computer generated report in a format approved by the Department of Revenue. Such reports must be submitted within the same time frames as set forth above.

Regulation 47-503. Payment of Excise Taxes - Colorado Licensed Wineries.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish an excise tax surcharge on certain vinous liquors produced by Colorado licensed wineries and sold, offered for sale, or used in Colorado.

The additional excise tax surcharge at the rate of 5.0 cents per liter for the first nine thousand liters, 3.0 cents per liter for the next thirty-six thousand liters, and 1.0 cent per liter for all additional amounts, is imposed on all vinous liquors except hard cider produced by Colorado licensed wineries and sold, offered for sale, or used in this state. This graduated rate shall be applicable on an annual basis beginning on the first day of July each year.

Regulation 47-504. Payment of Excise Taxes by Non-licensees.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish standards and procedures for excise tax payment and collection required of certain non-licensees.

A. Persons not licensed pursuant to this article arriving in the state from another state or foreign country may lawfully have in their possession, for personal use and not for resale, up to one (1) gallon or four (4) liters, whichever measure is applicable, of alcohol beverage without liability for the Colorado excise tax thereon. Excise taxes on alcohol beverages in excess of the aforesaid four (4) liters (or one gallon) shall be paid to the Colorado Department of Revenue in the amounts set forth in section 44-3-503, C.R.S. Persons in possession of such alcohol beverages at the time of their arrival in Colorado shall be liable for the payment of excise taxes thereon, and such payment shall be made within thirty (30) days of the date such alcohol beverages arrive in Colorado.

B. Notwithstanding the above, persons receiving vinous liquors in this state pursuant to the provisions of section 44-3-104 C.R.S., are exempt from payment of excise taxes on such liquor.

Regulation 47-506. Fees.

Basis and Purpose. The statutory authority for this regulation includes but is not limited to subsections 44-3-202(1)(b) and 44-3-501(3)-(4), C.R.S. The purpose of this regulation is to establish fees for certain applications, notices, reports, and services.

Below are the fees set by the State Licensing Authority pursuant to sections 44-3-501(3) and 44-3-501(4), C.R.S.

Alternating Proprietor Licensed Premises …….……..	$150.00
Application for New License ……..…….….	$1,550.00
Application for Transfer License …….……...	$1,550.00
Application for Transfer & Conversion for an Additional Liquor-Licensed Drugstore …..	$1,300.00
Branch Warehouse or Warehouse Storage Permit ……..….…	$100.00
Change of Corporate or Trade Name …….….....	$50.00
Change of Location …….....	$150.00
Concurrent Review …….……..……..…..……..	$100.00
Corporate/LLC Change (Per Person) …….……	$100.00
Duplicate Liquor License …….….	$50.00
Limited Liability Change …….……..	$100.00
Manager Permit Registration (Liquor-Licensed Drugstore) ……..….	$100.00
Master File Background …….……..	$250.00
Master File Location Fee (Per Location) ……..…..	$25.00
Modification of License Premises (City or County) ……..…...	$150.00

(except that a Temporary Modification of licensed premises to accommodate an outside service area Located on a sidewalk shall only incur an annual fee of $75.00, as outlined in Regulation 47-302(A)(4)).

New Product Registration (Per Unit) ……..…….	$0.00
Optional Premises Added to H&R License (Per Unit) …….….	$100.00
Retail Warehouse Storage Permit ……..…….	$100.00
Sole Source Registration ……..……...……..	$100.00
Winery Direct Shipment Permit …….……..…….…	$100.00
Subpoena Testimony (Per Hour) ……...	$50.00

Minimum of four (4) hours of appearance or on-call or travel time to court and mileage, meals, and lodging at state employee per-diem rate. Actual hourly rate for all hours in excess of four (4) hours.

Regulation 47-600. Complaints against Licensees - Suspension and Revocation of Licenses.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(E), C.R.S. The purpose of this regulation is to establish general processes and procedures required for the licensing authority to suspend or revoke a license for violations of any law, or rule or regulation of the state licensing authority.

A. Whenever a written complaint shall be filed with a licensing authority, alleging a violation by any licensee for the manufacture or sale of alcohol beverages with a violation of any law or of any of the rules or regulations adopted by the state licensing authority, the licensing authority shall investigate, as deemed appropriate, the allegations.

B. If it shall appear therefrom or shall otherwise come to the attention of the licensing authority appears from an investigation that there is probable cause to believe that a licensee has violated any such law, rule or regulation, the licensing authority may issue and cause to be served upon such licensee a notice of hearing and order to show cause why its license should not be suspended or revoked.

C. A hearing shall be held at a place and time designated by the licensing authority on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged or any other violation, evidence and statements in aggravation of the offense shall also be permitted.

D. If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee, but standing alone establishes the guilt of the licensee of a violation of some other law, rule or regulation, the licensee shall be permitted to give evidence and statements in defense, explanation and mitigation if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee, the licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than ten days, and shall then continue under the same procedure as though no recess had occurred.

E. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, his license may be suspended or revoked.

F. Every licensee whose license has been suspended by any licensing authority shall, if ordered by the licensing authority, post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and fourteen inches in width containing lettering not less than ½ " in height, and shall be in the following form:

NOTICE OF SUSPENSION
ALCOHOL BEVERAGE LICENSES ISSUED
FOR THESE PREMISES HAVE BEEN
SUSPENDED BY ORDER OF THE STATE-LOCAL LICENSING AUTHORITY
FOR VIOLATION OF THE COLORADO LIQUOR/BEER CODE

Advertising or posting signs to the effect that the premises have been closed or business suspended for any reason other than by order of the department suspending alcohol beverage license, shall be deemed a violation of this rule.

G. During any period of active license suspension, when such suspension has not otherwise been stayed by a licensing authority through the payment of a fine pursuant to section 44-3-601(3) through (8), C.R.S., the licensee shall not permit the selling, serving, giving away, or consumption of alcohol beverages on the licensed premises.

H. For purposes of calculating a fine to be paid in lieu of an active suspension, "between", as used in subsection 44-3-601(3)(b), C.R.S., shall include the minimum and maximum fine amounts permitted by statute.

Regulation 47-601. Assurance of Voluntary Compliance.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(E), C.R.S. The purpose of this regulation is to establish general processes and procedures necessary for an assurance of voluntary compliance by a licensee for violations of certain laws, or rules or regulations of the state licensing authority.

A. The Division Director or local licensing authority may accept an Assurance of Voluntary Compliance regarding any act or practice alleged to violate Articles 3, 4 or 5 of title 44, C.R.S., or the rules and regulations thereunder, by a licensee who has engaged in, is engaging in, or is about to engage in such acts or practices.

B. The Assurance of Voluntary Compliance must be in writing and may include a stipulation for the voluntary payment of the costs of the investigation.

C. An Assurance of Voluntary Compliance may not be considered an admission of a violation for any purpose by the state or local licensing authority. However, proof of failure to comply with the Assurance of Voluntary Compliance is prima facie evidence of a violation of articles 3, 4 or 5 of title 44, C.R.S., or the rules and regulation thereunder.

D. An Assurance of Voluntary Compliance shall not exceed nine (9) months from the date of executed agreement.

E. The state or local licensing authority may approve or review an Assurance of Voluntary Compliance executed by their respective agencies.

Regulation 47-602. Temporary-Summary Suspension.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(E), C.R.S. The purpose of this regulation is to authorize the licensing authority with the ability to immediately suspend a license pending hearing, subject to certain standards and process requirements.

A. Where a licensing authority has reasonable grounds to believe and finds that a licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety or welfare imperatively requires emergency action and incorporates such findings in its order, it may temporarily or summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined.

B. The temporary suspension of a license without notice pending any prosecution, investigation, or public hearing shall be for a period not to exceed fifteen days.

Regulation 47-603. Assessment of Penalties.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), and 44-3-601, C.R.S. The purpose of this regulation is to establish categories of violations, by level of severity, and associated penalty ranges for those violations to be used by the State and local licensing authorities, as well as establishing aggravating and mitigating factors which may be considered in assessing penalties for violations.

A. When making a determination regarding the type of penalty to impose for a violation of the Colorado Liquor Code and Rules the State Licensing Authority, or a local licensing authority, shall consider the severity of the violation(s) based on the categories set forth in subsections B through E of this Regulation 47-603, and any aggravating or mitigating factors.

B. Level One Violations.

1. This category of violations is the least severe and may include, but is not limited to, compliance check failures; licensing infractions that do not directly affect the health, safety, and welfare of the public at large; failure to report changes; product registration and/or labeling violations that do not affect public health, safety, and welfare; mandatory posting violations; trade name violations; minor books and record keeping violations; and minor advertising violations.

2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, a fine per individual violation, and/or a fine in lieu of suspension. In lieu of imposing a penalty for this category of violation, a licensing authority may, but is not required to, issue a warning or accept an assurance of voluntary compliance pursuant to regulation 47-601.

3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed five thousand dollars ($5,000.00) for a first violation. Fines for second and subsequent violations in this category shall not exceed fifteen thousand dollars ($15,000.00), per violation.

4. "First violation" as used in this section, means the first occurrence of a violation within a twelve month time period.

C. Level Two Violations.

1. This category of violations may include, but is not limited to, marketing and minor trade practice violations that do not directly affect the health, safety, and welfare of the public at large; sales to minors that are not a part of compliance check, that are a first violation and that do not result in substantial bodily injury or death; sales to intoxicated persons that are a first violation and that do not result in substantial bodily injury or death; minor delivery or shipping violations; improper storage of alcohol beverages; sale of non-permitted items; allowing the removal of alcohol beverages from an on-premises licensed premises; allowing an open container on an off-premises licensed premises; minor sanitation control violations; minor conduct of establishment violations; allowing minor gambling activities on the licensed premises; minor refilling violations; minor improper source violations; operating with an expired license; minor tasting violations; and sale to non-members for a club license.

2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, license revocation, a fine per individual violation, and/or a fine in lieu of suspension. In lieu of imposing a penalty for this category of violation, a licensing authority may, but is not required to, issue a warning or accept an assurance of voluntary compliance pursuant to regulation 47-601.

3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed twenty-five thousand dollars ($25,000.00), per violation.

D. Level Three Violations.

1. This category of violations may include, but is not limited to; substantial delivery or shipping violations; food requirement violations; substantial refilling violations; substantial improper source violations; exercising the privilege of a license other than that which the licensee holds, or permitting another to exercise the rights of a license they hold; allowing substantial gambling activities on the licensed premises; substantial tasting violations; unlawful financial interests; substantial sanitation control violations; employee age violations; and hours of operation violations.

2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, license revocation, a fine per individual violation, and/or a fine in lieu of suspension. In lieu of imposing a penalty for this category of violation, a licensing authority may, but is not required to, accept an assurance of voluntary compliance pursuant to regulation 47-601.

3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed seventy-five thousand dollars ($75,000.00), per violation.

E. Level Four Violations.

1. This category of violations is the most severe and includes violations that may directly affect the health, safety, and welfare of the public at large; sales to minors that are not a part of compliance check and that are a second or subsequent violation or that result in substantial bodily injury or death; sales to intoxicated persons that are a second or subsequent violation or that result in substantial bodily injury or death; substantial trade practice violations; substantial conduct of establishment violations; and permitting the consumption of marijuana or marijuana products on the licensed premises.

2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, license revocation, a fine per individual violation, and/or a fine in lieu of suspension.

3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed one-hundred thousand dollars ($100,000.00), per violation.

F. Calculation of Fines.

1. Except as provided under section 44-3-601(8), C.R.S., any fine assessed for a single violation may be no less than five hundred dollars ($500.00) and no more than one-hundred thousand dollars ($100,000.00), per violation.

2. Except as provided under section 44-3-601(8), C.R.S., any fine assessed, including a fine in lieu of suspension, shall be based on the level of violation established in subsections B through E of this Regulation 47-603, and:

a. The fine shall be the equivalent of twenty percent (20%) of the licensee's estimated gross revenues from sales of alcohol beverages for the following time frames, per violation:

i. For a Level One violation, seven (7) days;

ii. For a Level Two violation, fourteen (14) days;

iii. For a Level Three violation, at least twenty-one (21) days; and

iv. For a Level Four violation, at least twenty-eight (28) days.

b. Notwithstanding, subsection (F)(2)(a) of this Regulation 47-603, when assessing a fine in lieu of suspension, a licensing authority may, but is not required to, exclude from the calculation any days of suspension held in abeyance. The licensing authority has the discretion to determine the number of days held in abeyance, if any, based on the relevant time frames established in subsection (F)(2)(a).

c. Any fine assessed for a single violation shall be subject to the minimum and maximum fines set forth in subsection (F)(1) and shall not exceed the maximum fine established in rule for that category of violation.

3. The time frames detailed above and used for the fine calculation shall be within the same or similar month in which the violation occurred.

4. For the purpose of calculating fines, sales records must be maintained and made available to State and/or local licensing authorities upon request for the time periods set forth in Regulation 47-700. Failure to provide such records within seven (7) days of a request from the State and/or local licensing authority shall result in the presumption that the maximum fine for the offense category the violation falls under applies.

5. Notwithstanding the calculation of fines in subsection (F)(2) of this Regulation 47-603, any fine assessed for a single violation, including a fine in lieu of suspension, shall be subject to the maximum fine amounts established for the relevant category of violation in subsections (B) through (E) of this Regulation

G. Aggravating and Mitigating Factors.

1. State and local licensing authorities may take aggravating and mitigating factors into consideration when considering the imposition of a penalty. These aggravating and mitigating factors may result in the movement of a violation into a lower or higher category on a case-by-case basis. These factors may include, but are not limited to:

a. Mitigating Factors:

i. The licensee and/or its employees maintain responsible vendor training certification;

ii. The licensee has a substantial history of compliance with liquor laws and rules;

iii. The violation is a first violation, as defined in subsection (B)(4) of this Regulation;

iv. The violation was self-reported;

v. The extent to which the licensee took prompt and effective self-initiated action to correct the violation and to prevent future violations of the same type from occurring;

vi. The violation did not demonstrably result in harm, only the potential for harm;

vii. The violation was negligent, not willful;

viii. The violation is not part of a pattern or practice of violations;

ix. The implicated licensee did not encourage others to participate in the same or similar violations;

x. The violation did not result in serious bodily injury or death;

xi. The owner or management personnel was not involved in the violation, and/or did not direct their employees to violate the law;

xii. The licensee did not substantially benefit, monetarily or otherwise, from committing the violation.

b. Aggravating Factors:

i. The licensee and/or its employees do not maintain responsible vendor certification when certification is required by statute or regulation;

ii. The licensee has a substantial history of non-compliance with liquor laws and rules;

iii. The violation is a second, or subsequent offense;

iv. The violation was discovered, and later substantiated through investigation, as a result of a complaint, or multiple complaints;

v. The violation demonstrably resulted in harm, not just the potential for harm;

vi. The violation was willful, not negligent;

vii. The violation is part of a pattern or practice of violations;

viii. The implicated licensee encouraged others to participate in the same, or similar violations;

ix. The violation resulted in serious bodily injury or death;

x. The owner or management personnel engaged in the violation and/or directed an employee to violate the law;

xi. The licensee substantially benefited, monetarily or otherwise, from committing the violation.

H. This penalty schedule is a framework providing guidance as to the categories of violations, available penalties, and mitigating and aggravating factors that may be considered. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis. Licensing authorities retain discretion in assessing penalties within the bounds of the law.

I. Nothing in this Regulation 47-603 shall prohibit or prevent a licensing authority from temporarily or summarily suspending a license, regardless of the level of violation set forth in this regulation, if the licensing authority makes the findings required by Regulation 47-602.

Regulation 47-604. Compliance Check Penalties

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(E), C.R.S. The purpose of this regulation is to define standard penalties, and mitigating and aggravating considerations, for selling an alcohol beverage to a person less than twenty-one (21) years of age in the course of a compliance check procedure.

When a licensing authority finds that a licensee has sold alcohol beverages to a minor and that said violation was investigated or detected by using a person under twenty-one years of age to purchase alcohol beverages from the licensee, the licensing authority may consider the following penalties to be imposed for the violation:

A.

1. First Offense - (within one year) A written warning, Assurance of Voluntary Compliance or, up to a 15 day suspension. Accepting a fine (within the provisions of C.R.S. 44-3-601) in lieu of actual suspension is at the discretion of the licensing authority, as is holding a portion of the suspension time in abeyance for a period of time.

2. As an inducement for licensees to provide training for servers, because server training has proven to be an aid in the reduction of violations, it is recommended that, where there are no aggravating circumstances, a licensee who has fulfilled the requirements of a Responsible Vendor pursuant to 44-3-1002, C.R.S. be issued a warning, Assurance of Voluntary Compliance, or up to five (5) days suspension on the first violation.

B. Second Offense (within one year) - A 5 to 25 day suspension. If no fine was paid or suspension served at the time of the first offense, it would be within the discretion of the licensing authority to accept a fine (within the provisions of C.R.S. 44-3-601) in lieu of actual days of suspension and/or to hold a portion of the suspension time in abeyance for a period of time.

C. Third Offense (within two years) – 15 to 40 day suspension.

D. Fourth Offense (within two years) - 45 day suspension to revocation.

E. Licensing Authorities may also consider mitigating and aggravating factors when considering the imposition of the penalty. These factors may include:

1. Action taken by the licensee to prevent violations., i.e., training of servers.

2. Licensee's past history of success or failure with compliance checks.

3. Corrective action(s) taken by the licensee.

4. Prior violations/prior corrective action(s) and their effectiveness.

5. Willfulness or deliberateness of the violation.

6. Likelihood of recurrence of the violation.

7. Factors which might make the situation unique, such as:

a. Prior notification letter to the licensee that a compliance check would be forthcoming.

b. The dress or appearance of the underage operative, i.e., the operative was wearing a high school letter jacket.

8. Licensee or manager is the violator or has directed an employee or other individual to violate the law.

Regulation 47-605. Responsible Alcohol Beverage Vendor and Permitted Tastings by Retail Liquor Stores and Liquor-Licensed Drugstores

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-1002(2), C.R.S. The purpose of this regulation is to establish curricula required to be considered a responsible alcohol beverage vendor.

To be considered a Responsible Alcohol Beverage Vendor at any licensed premises, or to serve beverage alcohol at tastings held in retail liquor stores or liquor licensed drugstores, the following standards must be complied with.

A) Initial Certification Training Program Standards

1) A training program must be attended by the resident on-site owner (if applicable) or a manager, and all employees selling/serving alcohol beverages

2) Once a licensee is designated a “Responsible Vendor,” all new employees involved in the sale, handling and service of alcoholic beverages must complete the training described in this regulation within 90 days of date of hire

3) The program must include at least (2) hours of instruction time.

4) The program must provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee

a) Attendees that can speak and write English must successfully pass a written test with a score of 70% or better

b) Attendees that cannot speak or write English may be offered a verbal test, provided the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better

5) Program providers may, at their discretion, conduct class surveys or discussions to help determine a program’s effectiveness. This time shall not be counted as part of the program’s instruction time.

B) Initial certification training class core curriculum

1) Discussion concerning alcohol’s effects on the human body

a) Alcohol's physical effects

b) Visible signs of intoxication

c) Recognizing the signs

2) Liquor Liability

a) Civil liability

b) Criminal liability

c) Administrative liability (License Sanctions)

d) Liability for licensee and/or managers for the actions of employees

3) Sales to visibly Intoxicated persons

a) Colorado law provisions

b) Recognition and prevention

c) Intervention techniques

d) Related laws or issues

(1) DUI/DWAI

(2) Reg. 47-900

4) Sales to minors

a) Colorado law provisions

b) Sale and service

c) Permitting consumption

5) Acceptable forms of Identification (Reg. 47-912)

a) How to check identification - protocol

b) Spotting false identification

c) Mistakes made in verification

6) Other key state laws and rules affecting owners, managers, sellers, and servers

a) Age requirements for servers and sellers

b) Provisions for confiscating fraudulent identifications

c) Removal of liquor from on-premises licensed establishment

d) Patrons prohibited from bringing liquor onto licensed premises

e) Permitted hours of sale and service

f) Conduct of establishment

g) Nudity and prohibited entertainment

h) Permitting inspections by state and local licensing and enforcement authorities

i) Reporting changes in ownership and management

j) Licensee responsible for activities occurring within licensed premises

k) Tastings in retail liquor stores and liquor licensed drugstores

l) Prohibited purchases

C) Information for Owners and Managers

1) Local Licensing and Enforcement

a) Encourage to become familiar with local law provisions

b) Encourage to develop a relationship with local agencies

2) State Licensing and Enforcement

a) Contact Information for the Division

b) Become familiar with state laws and regulations

c) Encourage to develop a relationship with area investigator

3) Recommendations for Licensees

a) Establish policies and procedures.

b) Establish a record keeping system to document activities and events

c) Contact local authority on incident reporting expectations

D) Training programs based on type of licensed establishment and portability of training

1) Training program curriculum may be tailored by Division-certified training program providers to on-premises only licensed establishments, to off-premises only licensed establishments, or to both on-premises and off-premises combined. Except as noted below, all approved training programs shall include the curriculum contained in sections B and C of this regulation.

2) Combined training programs must include all of the curriculum contained in sections B and C of this regulation. Persons certified in a combined training program may use the certification in both on- and off-premises licensed establishments.

3) On-premises only training programs may exclude from their curriculum section B(6)(k) of this regulation relating to liquor store tasting events. Persons certified in an on-premises only training program may use their certification only in an on-premises licensed establishment.

4) Off-premises only training programs may exclude from their curriculum sections B(6)(c), (d), (f), and (g) relating to activities at on-premises businesses. Persons certified in an off-premises only training program may use their certification only in an off-premises licensed establishment.

E) Recertification requirements

1) Recertification must occur every three (3) years

2) Recertification shall be accomplished in any of the following manners:

a) Documented successful passage of a written or verbal test with a score of 70% or better administered by a Division-approved program trainer in person, which demonstrates knowledge of new and existing alcohol beverage laws

(1) Completion of a course is not required before the test is administered

(2) Failure to pass the first administration of the test shall require attendance at either a re-certication course or an initial certification training program

b) Documented attendance and completion of a recertification course

c) Documented attendance and completion of an initial certification training program

3) Recertification course

a) The curriculum must cover any and all changes in the law or regulations that effect the curriculum contained in the initial certification program

b) The course must provide a refresher on the following topics:

(1) Sales to intoxicated persons

(2) Sales to minors

(3) Legal sales hours

(4) Civil and criminal liabilities for law violations

c) No minimum instruction time or testing requirements shall apply

F. Records Retention The certified seller – server training program providers for the Responsible Alcohol Beverage Vendor Program must keep proof of attendance and records of successful completion of the training for a minimum of three (3) years and make the records available to the Division upon request.

Regulation 47-700. Inspection of the Licensed Premises.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-102, 44-3-201, 44-3-202(1)(b), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(O), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to clarify that the administration of articles 3, 4, or 5 of title 44 permits inspections of licensed premises and the seizure of any and all alcohol beverages or other items that are in violation of, or are evidence of a violation of, articles 3, 4, or 5 of title 44 and any regulations promulgated thereunder. This regulation also provides clarity to licensees and their agents, servants, and employees, regarding the time, place, scope, and items subject to inspection. This regulation also serves the purpose of identifying the books and records required to be maintained by the licensee and the period of time such records must be maintained and provided upon request.

A. The licensed premises, including any places of storage where alcohol beverages are stored or dispensed, shall be subject to inspections by the State or Local Licensing Authorities and their duly authorized representatives (which include investigators or peace officers) during all business hours and all other times of apparent activity, for the purpose of determining compliance with the provisions of articles 3, 4, or 5 of title 44, C.R.S., and regulations promulgated thereunder. For examination of books and records required to be kept by licensees, access shall only be required during business hours. Where any part of the licensed premises consists of a locked area (for example, closets, filing cabinets, desks, safes), upon demand to the licensee, such area shall be made available for inspection without unreasonable delay; and upon request by authorized representatives of the licensing authority or peace officers, such licensee shall open said area for inspection.

1. The State and Local Licensing Authorities and their duly authorized representatives shall have the authority to inventory any or all alcohol beverages and items related to the manufacture, distribution, or sale of alcohol beverages on the licensed premises or any place where alcohol beverages are stored or dispensed.

2. In connection with any such inspections, the State and Local Licensing Authorities and their duly authorized representatives may examine, secure, or seize alcohol beverages or other items found so long as there is a reasonable belief that such alcohol beverages or other items are in violation of, or may be used as evidence of a violation of, articles 3, 4, or 5 of title 44, or any regulations promulgated thereunder. By way of illustration, such other items may include, but are not limited to, inventory, surveillance media, books and records required to be kept by the licensee, and other records maintained by the licensee.

3. The State and Local Licensing Authorities and their duly authorized representatives shall promptly provide the licensee with written notice describing any and all items secured or seized and the reasons for securing or seizing such items.

B. Each licensee shall retain all books and records necessary to show fully the business transactions of such licensee for a period of the current tax year and the three prior tax years. “Books” and “records” include documents or information in printed or paper form as well as documents or information maintained in a readable electronic or digital format. Licensees shall provide copies of books and records requested by the State and Local Licensing Authorities and their duly authorized representatives without unreasonable delay.

Regulation 47-900. Conduct of Establishment.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(P), and 44-3-202(2)(a)(I)(R), C.R.S. In accordance with the legislative declaration of section 44-3-102, C.R.S., the Colorado Liquor Code is deemed an exercise of the police powers of the State of Colorado for the protection of the economic and social welfare and the health, peace, and morals of the people of the State of Colorado. Regulation of the manufacture, distribution, and sale of alcohol beverages is regulated by the Colorado Liquor Code as a matter of statewide concern. The purpose of this regulation is to exercise proper regulation and control over the sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State, and to establish uniform standards of decency, orderliness, and service within the licensed industry. Additionally, Sections 14 and 16 of Article XVIII of the Constitution of Colorado do not permit open and public consumption of marijuana and the State Licensing Authority deems liquor licensed premises to be public places.

A. Orderliness, loitering, serving of intoxicated persons.

Each person licensed under Article 3, Article 4, and Article 5 of Title 44, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not serve a known habitual drunkard or any person who displays any visible signs of intoxication, nor shall they permit a known habitual drunkard or any person who displays any visible signs of intoxication to remain on the licensed premises without an acceptable purpose, nor shall the licensee, his employee or agent knowingly permit any activity or acts of disorderly conduct as defined by and provided for in Section 18-9-106, C.R.S., nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed establishment is located.

B. Attire and conduct of employees and patrons.

No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles shall engage in or permit the following:

1. Employment or use of any person in the sale or service of alcohol beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

2. Employment or use of the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph number (1) above.

3. Any person on the licensed premises touching, caressing or fondling the breasts, buttocks, anus, or genitals of any other person.

4. Any employee or person on the licensed premises wearing or using any device or covering of any kind, which exposes or simulates the breasts, genitals, anus, pubic hair or any other portion thereof.

C. Entertainment.

Live entertainment is permitted on any licensed premises, except that:

1. No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles shall engage in or permit any person to perform acts of or acts which simulate:

   a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

   b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.

   c. The displaying of pubic hair, anus, vulva or genitals.

2. No licensee nor any employee or agent of such licensee shall engage in or permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

3. No licensee nor any employee or agent of such licensee shall engage in or permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

4. No licensee nor any employee or agent of such licensee shall wear or use any device or covering of any kind that exposes or simulates the breasts, genitals, anus, pubic hair or other portion thereof.

D. Visual displays.

No person licensed under Article 3, Article 4, and Article 5 of Title 44, nor any employee or agent of such person licensed under these Articles, shall engage in or permit on the licensed premises the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

2. Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals.

3. Scenes wherein a person displays the vulva or the anus or the genitals.

4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

E. Marijuana consumption.

No person or entity licensed under Article 3, 4, or 5 of Title 44, C.R.S. shall permit the consumption of marijuana and/or marijuana products as defined in sections 14 and 16 of Article XVIII of the Constitution of Colorado on any licensed premises.

F. Local ordinances.

This regulation shall not be deemed to authorize or permit any conduct, behavior or attire on licensed premises which is otherwise prohibited by any city or county ordinances.

Regulation 47-901. Public Consumption of Alcohol Beverages.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is establish a mechanism for an appropriate authority to notify the state licensing authority when public consumption ordinances, resolutions, or rules are promulgated within the applicable jurisdiction so that the state licensing authority is aware of the varying ordinances, resolutions, or rules.

A. A local licensing authority or the Parks and Wildlife Commission, as applicable, shall notify the Division of any new or amended ordinance, resolution, or rule which authorizes the public consumption of alcohol beverages. Such notification must include a copy of and citation to the ordinance, resolution, or rule.

Regulation 47-902. Sanitary Requirements.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(L), C.R.S. The purpose of this regulation is to require clean and sanitary conditions for on-premises consumption licensees.

A. Each licensee selling alcohol beverages for consumption on the premises, shall maintain its establishment in clean and sanitary condition.

B. If the licensee is also required to be licensed by the Colorado Department of Public Health and Environment or the Denver Department of Excise and Licenses, it shall maintain the Colorado Department of Public Health and Environment or the Denver Department of Excise and Licenses license in full force and effect at all times while selling such alcohol beverages for consumption therein.

Regulation 47-904. Product Labeling, Substitution, Sampling and Analysis.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(M), and 44-3-202(2)(a)(I)(N), C.R.S. The purpose of this regulation is to establish filling, labeling, and sampling and analyzing standards for alcohol beverages.

A. No licensee, for the sale of alcohol beverages for consumption on the premises where sold, shall maintain thereon any container of alcohol beverage which contains any such substance other than that contained at the time such container was received by or delivered to the licensee. Nothing herein shall prohibit a licensee from using emptied liquor bottles with labels removed from filling them with non-alcohol items (e.g. marbles, sand, salt, pepper) for the purpose of decorations or display.

B. No licensee, for the sale of alcohol beverages for consumption on the premises where sold, shall substitute one brand, type, or alcohol content of alcohol beverages for that which has been specifically requested by a customer, unless the customer expressly consents to the substitution.

C. Except manufacturers or malt liquor manufacturers with an onsite wholesale sales room, no licensee shall refill or permit the refilling of any alcohol beverage container with alcohol beverage or reuse any such container by adding distilled spirits or any substance, including water, to the original contents or any portion of such original contents. There shall be no prohibition against the use of carafes, pitchers or similar serving containers.

D. If sampling, analysis or other means shall establish that any such licensee has upon the licensed premises any bottle or other container which contains alcohol beverage of a different brand, type, or alcohol content than that which appears on the label thereof, such licensee shall be deemed to have violated this regulation.

E. All licensees for the sale of alcohol beverages for consumption on the premises where sold shall, upon request of the Division or any of its officers, make available to the person so requesting a sufficient quantity of such alcohol beverage to enable sampling or analysis thereof. The licensee shall be notified of the results of the sampling or analysis without delay.

F. The manufacturer or importer of any alcohol beverage product sold in or shipped to Colorado must register said product with the Division prior to the date of the product's initial intended date of sale or shipment. If required by applicable Federal laws or regulations, alcohol beverages sold in Colorado must have obtained either a “Certificate of Label Approval” or a “Certificate of Exemption” from the Alcohol and Tobacco Tax and Trade Bureau (“TTB”).

G. The manufacturer or importer of alcohol beverage products that have obtained a TTB “Certificate of Exemption” are required upon request to certify that their product's label will comply with TTB labeling criteria as found in the “Federal Alcohol Administration Act” 27 CFR Subchapter A - Liquor Part 4, Subpart D; Part 5, Subpart D; and Part 7, Subpart C.

The material incorporated by reference shall be those effective as of January 1, 2019. Material incorporated by reference in this rule does not include later amendments to or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Director of the Colorado Liquor Enforcement Division of the Department of Revenue, 1697 Cole Boulevard, Suite 200, Golden, Colorado, 80401, and copies of the material may be examined at any state publication depository library.

Regulation 47-905. Colorado Wineries – Labeling and Records

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(N), 44-3-202(2)(a)(I)(O), and 44-3-403(3), C.R.S. The purpose of this regulation is to establish labeling and record keeping standards for Colorado wineries.

A. A Colorado winery must include on the labels of all grape wines, even those exempted from approval by the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB), information identifying the appellation of origin such as country, state, province, county or viticultural area.

B. A Colorado winery using the words “Colorado grown” on a label shall use only 100% Colorado grown grapes, fruit or other agricultural products in the manufacture of that labeled vinous liquor.

C. Honey wine, mead or any vinous liquor the alcoholic content of which is primarily obtained from fermented honey shall not be subject to paragraph A of this regulation, 47-905, except that the use of the phrase “Colorado grown” shall require that all honey and any other agricultural products used to manufacture or flavor the wine must be grown, gathered or harvested within Colorado.

D. A Colorado winery shall maintain records of the purchase and harvest of agricultural produce used in the manufacture of each of its vinous liquors. Such records shall be sufficient to verify the source of agricultural produce used in the manufacture of vinous liquors. These records shall be available for inspection by the Division for a period of three years after the first sale of each vinous liquor, or longer if required by other applicable statutes or regulations.

E. Any stock of printed labels in the possession of a winery prior to this regulation taking effect shall be exempt from these regulations until such time as that stock of printed labels is depleted. Neither this paragraph nor any other provision in this regulation shall be construed to supersede any more stringent statute or regulation. More specifically, labels exempted from this regulation under this paragraph are in no way exempt from complying with any and all applicable federal wine labeling requirements.

F. A Colorado limited winery shall, on or before February 28, annually declare on a form provided by the Division that it did not manufacture more than 100,000 gallons of vinous liquor in the preceding calendar year.

Regulation 47-906. Container Size

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to establish container size standards for vinous or spirituous liquors, available for sale in different licensed establishments.

A. No manufacturer or wholesaler shall sell or deliver any vinous or spirituous liquors to any Colorado licensed retailer licensed for the sale of alcohol beverages for consumption on the premises in any container prohibited by this regulation.

B. No Colorado licensed retailer licensed under Article 3 for the sale of alcohol beverages for the consumption on the premises shall purchase or have in its possession upon or about the licensed premises spirituous liquor of over fourteen (14) percent alcohol by volume in any container of less than 375 milliliters, or vinous liquors of over fourteen (14) percent alcohol by volume in any container of less than 375 milliliters, and no vinous or spirituous liquors, regardless of alcohol content, shall be purchased or possessed on the licensed premises in any flat or flask-shaped container of less than twenty-four (24) ounce capacity. The provisions of this subsection B, shall not apply to an aggregate package of alcohol beverages that are, upon manufactured packaging and sale to a retailer, at least 375 milliliters in aggregate, and provided that the individual containers within the aggregate package are opened by the licensee prior to serving consumers, and that neither the seal nor any other device that can be used to seal the container is provided by the licensee to the consumer.

C. The provisions of subsection B, herein above, shall not apply to any retailer licensed as a public transportation system pursuant to Article 3. However, no person licensed as a public transportation system shall purchase or possess on the licensed premises any vinous or spirituous liquors in any flat or flask-shaped container less than twenty-four (24) ounce capacity. In addition, no person licensed as a public transportation system shall sell or serve any vinous or spirituous liquor to any person except in an open container, or in a container which has had the lid, top, cork, or seal broken open or removed.

D. The provisions of subsection B, herein above, shall not apply to containers of any size in hotel guest rooms nor shall it prohibit any hotel and restaurant licensee including an optional premise licensee, from purchasing or possessing for sale to customers, for on-premise consumption only, any container which is not less than 1.7 fluid ounce capacity; provided, however, the licensee must open the lid, top or cork, break and remove the seal, and pour the contents of the container into a serving glass or other serving container. The customer may retain the empty container as a souvenir.

E. The alcohol beverage containers referred to in paragraphs B, C, and D of this regulation shall include all alcohol beverages marketed in the nearest metric equivalent measure container.

Regulation 47-908. Automatic and Electronic Dispensing Systems.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(B), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), and 44-3-202(2)(a)(I)(N), C.R.S. The purpose of this regulation is to establish requirements for an on-premises consumption licensee's self-dispensing system and its operation if a licensee has a self-dispensing system on the licensed premises.

The installation of automatic and electronic dispensing systems by on-premises consumption licensees is authorized provided that the following requirements are complied with:

A. Such equipment must avoid an in-series hook-up which would permit the contents of vinous and spirituous liquor bottles or containers to flow from bottle to bottle before reaching the dispensing spigot or nozzle. Such equipment shall not permit intermixing of different brands, or differently labeled types, of the same kind of alcohol beverages within the dispensing systems.

B. Where any part of such installation is within a locked area, upon demand to the licensee, such area shall be made available for inspection without delay; and upon request by an authorized representative of the licensing authority, or peace officers, such licensees shall open said area for inspection.

C. Such equipment shall not be coin operated nor be able to accept other payment methods and shall be operated personally and directly only by the licensee or employees thereof. Provided, however, this subsection (C) does not apply to a dispensing system that is located at a licensed premises where the regular consumption of malt liquors, fermented malt beverages, vinous liquor or spirituous liquor by persons over the age of twenty-one is authorized under the following conditions:

1. Prior to activation of such device, the licensee or their employee has determined the patron is (1) twenty-one (21) years of age or older, and (2) is otherwise legally able to be served an alcohol beverage; and

2. Such activation of the device is conducted by the licensee or employee thereof; and

3. Such activation provides the ability to dispense no more than thirty-two (32) ounces of malt liquor or fermented malt beverage; or fourteen (14) ounces of vinous liquor; or two (2) ounces of spirituous liquor, per person, before reactivation is allowed; and

4. The licensee or their employees shall monitor the sale, service, and consumption of any alcohol beverages from the dispensing system to ensure compliance with the Colorado Liquor Code and Rules.

5. No alcohol shall be dispensed outside the times allowed pursuant to sections 44-3-901(6) or 44-3-301(10)(c)(V), C.R.S. and any un-dispensed alcohol after such time will be forfeited and not be able to be dispensed at a later time. This paragraph (5) does not prohibit a refund of unused credit to a consumer.

Any dispensing device used solely by the licensee or their employees is not subject to paragraph C.

D. No alcohol beverage shall be sold, served or dispensed from such system equipment unless the brand names of the manufacturer's product, corresponding to the container from which the alcohol beverage is drawn, are conspicuously posted and visible to the customer; or are imprinted on a card, sign or plate, and are visible to the public.

E. The installation of such equipment without compliance with any of the foregoing requirements shall constitute good and sufficient cause for the suspension, cancellation or revocation of the license.

Regulation 47-910. Consumption Prohibited.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to prohibit on-premises consumption of alcohol beverages during any time prohibited by law.

No retail licensee shall permit the consumption of any alcohol beverages on the licensed premises at any time during such hours as the sale of such beverages is prohibited by law.

Regulation 47-912. Identification.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(a)(I)(R), 44-3-410(2)(a)(IV), and 44-3-901(11)(a), C.R.S. The purpose of this regulation is to define adequate identification criteria for purposes of demonstrating age, and establish the factors of an affirmative defense available to a licensee for an alleged sale to a minor.

A. Except as otherwise provided in section 44-3-901(11), C.R.S., licensees may refuse to sell alcohol beverages to any person if unable to verify the person is at least twenty-one years of age. Verification of age can be done by either:

1. Producing adequate identification of age, including any verified digital identification, that is valid and unexpired. Identification of age is adequate if it contains a picture and date of birth and is one of the following:

    a. Any type of driver's license, or identification card issued by any state within the United States, the District of Columbia, any U.S. Territory, or any foreign country, including Canada or Mexico;

    b. A United States military identification card or any other identification card issued by the United States government including, but not limited to, a permanent resident card, alien registration card, or consular card;

    c. A passport, or passport identification card;

    d. A valid consular identification card from any foreign country; or

2. Using a biometric identity verification device. For purpose of this regulation, “biometric identity verification device” means a device that instantly verifies the identity and age of a person by an electronic scan of a biometric characteristic of the person, such as a fingerprint, iris, face, or other biometric characteristic, or any combination of these characteristics; references the person’s identity and age against any record of identification described in paragraph (A)(1) of this regulation; and contemporaneously provides the licensee with identity and age verification for the person utilizing the device. Prior to using a biometric identity verification device to verify the identity and age of a person for purposes of this paragraph (A)(2), the licensee shall ensure the device provider has systems in place to:

    a. Verify the authenticity of any identification records by an electronic authentication process;

    b. Verify the identity of, and relevant identifying information about, the person through a secondary, electronic authentication process or set of processes utilizing commercially available data, such as a public records query or a knowledge-based authentication quiz; and

    c. Securely link the authenticated record to biometric characteristics contemporaneously collected from the person and store the authenticated record in a centralized, highly secured, encrypted biometric database.

B. It shall be an affirmative defense to any administrative action brought against a licensee for alleged sale to a minor if the licensee meets its burden of proof to establish, by a preponderance of the evidence, that:

1. The minor presented fraudulent identification of the type established in paragraph (A)(1) of this regulation, and the licensee possessed an identification book issued within the past three years, which contained a sample of the specific kind of identification presented for compliance purposes, or;

2. The licensee used and relied upon a biometric identity verification device that indicated the minor was twenty-one years of age or older, in accordance with paragraph (A)(2) of this regulation.

3. A licensee asserting the affirmative defense, as described in Paragraph (B)(2) of this regulation, shall be responsible for obtaining, and providing to the Division, all records necessary to establish that a biometric identity verification device was used as age verification for the transaction in question.

C. If a liquor-licensed drug store elects to use a biometric identify verification device at a self-checkout machine or other mechanism described in section 44-3-410(2)(a)(III), C.R.S., it shall not allow a consumer to complete the alcohol beverage purchase without assistance from and completion of the entire transaction by an employee of the liquor-licensed drugstore.

Regulation 47-913. Age of Employees.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to define permitted and prohibited roles for a liquor licensee's employees based upon the employee's age.

A. Nothing within this regulation shall authorize a licensee to permit a person under the age of eighteen (18) to sell, dispense, serve, or participate in the sale, dispensing, or service of alcohol beverages.

B. Except as otherwise provided by this regulation, a licensee shall not permit a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age to sell, dispense, or serve alcohol beverages unless the employee is supervised by another person who is on the licensed premises and is at least twenty-one (21) years of age.

C. Tavern and lodging and entertainment licensees that do not regularly serve meals.

1. Employees or agents of the licensee who are at least twenty-one (21) years of age may handle and otherwise act with respect to malt, vinous, and spirituous liquors in the same manner as that person does with other items sold at retail and may sell such alcohol beverages or check identification of the customers of the retail outlet.

D. Retail liquor store and liquor-licensed drugstore licensees.

1. Retail liquor store and liquor-licensed drugstore licensees may permit a person who is at least eighteen (18) years of age to sell, serve, or participate in the sale or service of malt, vinous, and spirituous liquor.

2. Retail liquor store and liquor-licensed drugstore licensees shall not permit a person who is less than twenty-one (21) years of age to deliver malt, vinous, and spirituous liquor pursuant to Regulation 47-426, 1 C.C.R. 203-2.

E. Fermented malt beverage licensees.

1. Fermented malt beverage licensees may permit a person who is at least eighteen (18) years of age to sell, serve, or participate in the sale or service of fermented malt beverages.

2. Fermented malt beverage licensees for sales for consumption off the licensed premises shall not permit a person who is less than twenty-one (21) years of age to deliver fermented malt beverages pursuant to Regulation 47-426, 1 C.C.R. 203-2.

F. Special event permit holders:

1. No person under eighteen (18) years of age may sell, serve, dispense or handle alcohol beverages.

2. Malt, vinous, and spirituous liquors special event permittees may permit a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age to sell, serve, dispense, or handle alcohol beverages when said person is under the direct supervision of a person who is at least twenty-one (21) years of age.

3. Fermented malt beverage special event permittees may permit a person who is at least eighteen (18) years of age to sell, serve, dispense, or handle fermented malt beverages.

G. Wholesalers and manufacturers licensed pursuant to article 3, of title 44, C.R.S.

1. Employees or agents of the licensee who are at least twenty-one (21) years of age may handle and otherwise act with respect to alcohol beverages in the same manner as that person does with other items sold at wholesale and may sell and/or deliver such alcohol beverages to retail outlets.

2. Employees or agents of the licensee who are at least eighteen (18) years of age may handle and otherwise act with respect to alcohol beverages in the same manner as such person would with other items sold at wholesale, as long as they are under the direct supervision of a person who is at least twenty-one (21) years of age. However, persons under the age of twenty-one (21) shall not sell malt, vinous, or spirituous liquors or check identification of the customers of the permitted sales room.

Regulation 47-914. Unlicensed Possession of Beverages.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to prohibit a licensee from possessing, maintaining, or permitting the possession on the licensed premises of any alcohol beverage that it is not licensed to sell or possess.

Except as provided by subsection 44-3-107(2), C.R.S., no licensee shall possess, maintain or permit the possession, on the licensed premises, of any alcohol beverage which it is not licensed to sell or possess for sale.

Regulation 47-916. Advertising.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(H), and 44-3-202(2)(a)(I)(N), C.R.S. The purpose of this regulation is to provide guidance regarding certain prohibited advertising practices of malt, vinous, or spirituous liquor licensees regarding the alcohol content of beverages sold, distributed, or dispensed on the licensed premises.

No licensee for the sale or distribution of malt, vinous or spirituous liquor shall, upon or in proximity to, or referring to the licensed premises, use, advertise or exhibit, or permit to be used, published or exhibited, any sign, advertisement, display, notice, symbol or other device which advertises, indicates, implies or infers an alcohol content of alcohol beverages sold, distributed or dispensed upon such premises, of an amount or percentage greater or lesser than the actual alcohol content of such beverages.

Regulation 47-918. Removal of Alcohol Beverages from Premises.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to make clear, with the limited exceptions found in section 44-3-423, C.R.S. that knowingly permitting the removal of any alcohol beverage from an on-premises licensee's licensed premises is not permitted and the circumstances under which a licensee may be charged notwithstanding the posting of signs as outlined in subsection 44-3-901(10)(a)(II), C.R.S.

A. Except as provided by section 44-3-423, C.R.S., or subsection 44-3-107(2), C.R.S., no licensee, manager or agent of any establishment licensed for on-premises consumption shall knowingly or recklessly permit the removal from the licensed premises of any alcohol beverages in sealed or unsealed containers.

1. Licensees that post signs as specified in subsection 44-3-901(10)(a)(II)(A), C.R.S., must post the signs at all exits in a location that can be easily identified and read by patrons using those exits.

2. Regardless of whether a licensee posts a sign as specified in subsection 44-3 901(10)(a)(II)(A), C.R.S., the licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises if the licensee shows reckless disregard for the prohibition against alcohol beverage removal from the licensed premises, which may include permitting the removal of an alcohol beverage from the licensed premises three times within a twelve-month period, regardless of whether the three incidents occur on the same day or separate days. A licensee may be charged with knowingly permitting the removal of an alcohol beverage from the licensed premises upon the third occurrence of alcohol beverage removal from the licensed premises.

B. Licensees who may permit a patron to remove a partially consumed bottle of vinous liquor pursuant to section 44-3-423, C.R.S., shall reseal the bottle with a cork or other commercially manufactured stopper.

C. Patrons transporting a partially consumed bottle of vinous liquor in a motor vehicle shall comply with the requirements of section 42-4-1305, C.R.S.

D. Wholesalers may remove sealed and unsealed containers of alcohol beverages from liquor licensed premises that had been introduced during the retailer sampling.

Regulation 47-920. Solicitation of Drinks.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), and 44-3-202(2)(a)(I)(M), C.R.S. The purpose of this regulation is to prohibit the solicitation of a drink or the purchase of a drink for the solicitor, whether the solicitor is an employee, agent, or any person on the licensed premises.

A. No licensee, manager or agent shall employ or permit upon any premises licensed for on-premises consumption, any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure, or solicit the purchase or sale of drinks or alcohol beverages for the use of the one begging, procuring or soliciting or for the use of any other employee.

B. No licensee, manager or agent selling alcohol beverages for consumption on the premises shall permit anyone to loiter in or about said premises who solicits or begs any patron or customer of, or visitor in, such premises to purchase any drinks or alcohol beverages for the one soliciting or begging.

Regulation 47-922. Gambling.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(M), and 44-3-901(6)(n), C.R.S. The purpose of this regulation is to clarify and define prohibited and permitted activities, games, and equipment on the licensed premises concerning gambling.

A. Activities prohibited.

1. No person licensed under Article 3, Article 4 and Article 5 of Title 44 to sell at retail shall authorize or permit on the licensed premises any gambling, or use of any gambling machine or device, or the use of any machine which may be used for gambling, except as specifically authorized for a racetrack, pursuant to Article 60 32 of Title 44 C.R.S., or for limited gaming, pursuant to Article 30 of Title 44 C.R.S.

2. No person licensed under these Articles shall authorize or permit on the licensed premises the holding of any lottery, except as authorized by Article 40 of Title 44, C.R.S. 1973 and any rules and regulations promulgated thereunder. Nothing in this regulation shall be deemed to prohibit the conducting of games of chance authorized by the bingo and raffles law (Article 9 of Title 12, C.R.S. 1973).

B. Equipment prohibited.

No person licensed under Article 3, Article 4 and Article 5 of Title 44 to sell at retail shall authorize, permit or possess on the licensed premises any table, machine, apparatus or device of a kind normally used for the purpose of gambling, except as specifically authorized and when licensed for limited gaming, pursuant to Article 30 of Title 44 C.R.S. Prohibited equipment shall include video poker machines and other devices, defined either as slot machines pursuant to C.R.S. 44-30-103(30)(a) and/or gambling devices pursuant to C.R.S. 18-10-102.

C. Equipment permitted.

1. Nothing in this regulation shall be deemed to prohibit the use of bona fide amusement devices, such as pinball machines or pool tables, provided however that such devices do not and cannot be adjusted to pay anything of value, and that such devices are not used for gambling, as defined in C.R.S. 18-10-102, as the same may be amended from time to time.

2. A licensee is permitted to conduct, on its licensed premises, tournaments or competitions involving games of skill as permitted by C.R.S. 18-10-102(2)(a), including the awarding of prizes or other things of value to participants, in connection with the use or operation of devices such as and including, but not limited to:

a. Pool tables

b. Billiard tables

c. Pinball machines

d. Foosball machines

e. Basketball games

f. Air hockey games

g. Shuffleboard games

h. Dart games

i. Bowling games

j. Golf Games

3. Licensees will not be considered in violation of this regulation if they permit on their licensed premises card or similar games of chance to be played between natural persons whereas no person is engaging in gambling as defined by C.R.S. 18-10-102(2).

D. Inspections and records.

1. Licensees shall keep a complete set of records, including operating manuals, concerning any game machine or device maintained on their licensed premises. Licensees who do not own their machines or devices shall be required to maintain a copy of their current contract with the vendor. This contract at a minimum shall detail the division of profits between the parties and how monies will be accounted for, including the payment of any monies, credits, or any other thing of value to customers of the licensee. Copies of any outstanding notes or loans between the parties must also be maintained by the licensee.

2. Licensees shall make available without delay to agents of the state or local licensing authority access to the interiors of any machine or device maintained upon the licensed premises to assist in the determination of whether or not said machine or device is permitted or prohibited equipment.

Regulation 47-924. Importation and Sole Source of Supply/Brand Registration.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to establish procedures and forms required for a party to import alcohol beverages into the state of Colorado and to require where applicable compliance with requirements in the Federal Alcohol Administration Act.

A. Before any person, firm, company, partnership, or corporation ships any alcohol beverages into the State of Colorado, each such entity shall be properly licensed by the state licensing authority. The only exceptions to licensing for importation may be found under 44-3-104 and 44-3-106, C.R.S.

B. Prior to the sale or shipment of any alcohol beverages into the State of Colorado, each licensed manufacturer, non-resident manufacturer or importer shall submit to the state licensing authority a complete and approved report, on forms prepared and furnished by the state licensing authority, which shall detail: the licensee's name and license number; the designated Colorado licensed wholesaler(s); the name of the United States primary source of supply; the products to be imported, including the brand name, class or type, and fanciful name; and evidence of compliance with federal labeling requirements found in the “Federal Alcohol Administration Act” 27 CFR Subchapter A-Liquors Part 4, Subpart D; Part 5, subpart D; and Part 7, Subpart C. The import licensee, if not the product manufacturer, shall also include with said form a separate letter from the primary source of supply designating such import licensee as the primary source in the United States or the sole source of supply in Colorado. A separate form is required for each primary source. Each non-resident manufacturer, manufacturer and importer shall also remit with said form the appropriate brand registration and/or sole source fee(s). A separate sole source fee is required for each primary source that an importer represents.

C. Should the primary source of supply change its designated licensed importer, the newly designated licensed importer is required to submit the same information described in paragraph B of this regulation on required forms thirty (30) days prior to shipment of any alcohol beverages. The newly designated importer shall also remit the appropriate sole source and brand registration fees with said form.

The material incorporated by reference shall be those effective as of January 1, 2019. Material incorporated by reference in this rule does not include later amendments to or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Director of the Colorado Liquor Enforcement Division of the Department of Revenue, 1697 Cole Boulevard, Suite 200, Golden, Colorado, 80401, and copies of the material may be examined at any state publication depository library.

Regulation 47-926. Interference with Officers.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to prohibit the use or threat of force against a licensing authority employee or peace officer exercising their duties under the article.

No licensee or person shall by force or threat of force, including any letter or other communication threatening such force, endeavor to intimidate, obstruct or impede inspectors of the Division, their supervisors or peace officers from exercising their duties under the provisions of this article. The term "threat of force" includes the threat of bodily harm to the officer or to a member of his/her family.

Regulation 47-930. Repealed.

Regulation 47-940. Powdered Alcohol – Packaging and Labeling.

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(N), and 44-3-401(2), C.R.S. The purpose of this regulation is to establish packaging and labeling standards for powdered alcohol products.

Any manufactured package of powdered alcohol as defined in section 44-3-103(37), C.R.S. or section 44-3-103(54), C.R.S. shall have the following words:

THIS PRODUCT CONTAINS ALCOHOL

in a bold-face font at least ¼ inch in height, which is a part of the permanent manufactured packaging of the powdered alcohol product.

Each package that contains powdered alcohol shall be child resistant. For the purpose of this regulation, "child resistant' means packaging that is:

A. Designed or constructed to be significantly difficult for children under five (5) years of age to open and not too difficult for normal adults to use properly.

B. Resealable.

Regulation 47-942. Powdered Alcohol Regulation.

Basis and Purpose. The statutory authority for this regulation is found at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-401(2), C.R.S. On March 10, 2015, the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) allowed the use of powdered alcohol as a distilled spirit. The purpose of this regulation is to establish rules and guidance regarding the manufacture, purchase, sale, possession, and use of powdered alcohol and clarifying that because powdered alcohol is defined as a spirituous liquor all regulations that apply to spirituous liquor apply to powdered alcohol.

A. Pursuant to section 44-3-103(54), C.R.S., powdered alcohol is defined as a spirituous liquor; therefore all regulations pertaining to spirituous liquor apply to powdered alcohol.

B. Powdered alcohol as defined in section 44-3-103(37), C.R.S. which is not manufactured and intended for use as an alcohol beverage shall not be subject to regulations set forth in 1 C.C.R. 203-2. Uses may include (but are not limited to) industrial, research hospitals, educational institutions, and pharmaceutical or biotechnology companies conducting bona fide research.

C. Powdered alcohol sold or dispensed at a business licensed for on-premises consumption must be reconstituted as instructed on the label prior to being served.

D. For the purpose of the Colorado Liquor Rules, 1 C.C.R. 203-2, the liquid volume of powdered alcohol shall be the amount of liquid as directed on the manufactured packaging for each powdered alcohol product.

Regulation 47-1000. Qualifications for Special Event Permit.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to define the types of organizations that qualify for a special event permit.

Organizations qualifying for special events permit are described as follows:

A. Organizations that are incorporated under the laws of this state for social, fraternal, patriotic, political, educational, or athletic purposes, and not for pecuniary gain.

B. Municipalities, counties, or special districts.

C. Any nonprofit or charitable organization that is incorporated or registered with the Colorado secretary of state.

D. A regularly chartered branch, lodge, or chapter of a national organization or society organized for social, fraternal, patriotic, political, educational, or athletic purposes and is nonprofit in nature.

E. A regularly established religious or philanthropic institution.

F. A state institution of higher education, to include each principal campus of such institution.

G. Any political candidate who has filed the necessary reports and statements with the secretary of state pursuant to article 45 of title 1, C.R.S. Political as used in article 5 of title 44, shall mean any political organization or political party as defined in section 1-1-104, C.R.S. However, no permit shall be required for those individuals or candidates campaigning or running for public office and who sponsor fund raising activities when such activities are held in a private residence and there is no cash bar in operation.

H. An entity that is either a state agency, the Colorado Wine Industry Development Board created in section 35-29.5-103, C.R.S., or an instrumentality of a municipality or county, provided that the entity promotes:

1. Alcohol beverages manufactured in the state; or

2. Tourism in an area of the state where alcohol beverages are manufactured.

I. Repealed.

Regulation 47-1002. Application for Special Event Permit.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to establish procedures and forms required to issue a special event permit.

A. Applications for special event permit shall be made on forms provided by the local or state licensing authority and verified by oath or affirmation of an officer, or a duly appointed designee, of the applicant organization.

B. A local authority may elect not to notify the state licensing authority for the purpose of obtaining the state licensing authority's approval or disapproval of an application for special event permit. Any local authority electing not to notify the state licensing authority shall promptly act upon each application for special event permit.

1. The local licensing authority acting as the sole reviewer of the application shall report to the Division, within ten (10) days from issuance of a permit, the name of the permitted organization, the address of the permitted location, and the permitted dates of alcohol beverage service.

2. The Division shall maintain on its public website the statewide permitting activity, which the local authority shall review prior to its approval and issuance of permits in order to ensure compliance with section 44-5-105(3), C.R.S. regarding the maximum number of permits that may be issued to an organization each calendar year.

C. Applications shall be filed with the local licensing authority not less than thirty (30) days prior to the date of the special event. The respective local licensing authority shall investigate each special event permit application, and shall either approve or deny such application upon proper grounds in accordance with the provisions of article 5 of title 44, C.R.S.

D. If a local licensing authority elects to notify the state licensing authority for the purpose of obtaining the state licensing authority's approval or disapproval of an application for special event permit, the permit application shall be accompanied by the applicable state permit fees and shall be submitted to the state licensing authority not less than ten (10) days prior to the date of the event.

G. The state or local licensing authority, for good cause, may waive the time requirements set forth in this regulation, but may not waive any time requirements specified in article 5 of title 44, C.R.S.

H. The holder of any type of special event permit issued by either licensing authority, shall post such permit upon the premises covered by such permit and any authorized non-contiguous storage areas, and it shall produce evidence of the permit to any law enforcement officer.

Regulation 47-1004. Special Event Permit – Non-transferable.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to make clear that a special event permit is non-transferable, and is only valid for dates and locations specified in the application.

A. The special event permit issued by the local or state licensing authority for a specific date and location, as properly described in the application for such permit, is non-transferable. Such permit is not valid for any other date or location unless the local licensing authority published notice of, and considered, other alternate dates or locations in the event of inclement weather, etc.

B. The special event permit cannot be transferred to any other organization, nor may any other person or organization exercise the privileges of said permit, directly or indirectly.

Regulation 47-1006. Special Event Permit - Application on School Property.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to make clear that the issuance of a special event permit within a distance restricted (500 ft) area pertaining to school property during hours in which no school classes are scheduled is permitted and otherwise prohibiting the same.

A. No application for the issuance of a special event permit for the sale of malt, vinous or spirituous liquors shall be received or acted upon where the premises upon which the alcohol beverage is to be sold is located within five hundred feet of any public or parochial school or the principal campus of any college, university or seminary, which distance is to be measured as set forth in the liquor code or related regulations.

B. This restriction shall not be imposed during those hours in which no school classes are scheduled, or shall not apply to those applicable exceptions set forth in subsection 44-3-313(1)(d)(I), C.R.S. or related regulations.

Regulation 47-1008. Special Event Permit – Private Residence: Multiple Use.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to allow one special event permit with duplicate copies if the event will be conducted on a series of separate private residences.

Upon filing of satisfactory evidence with the local licensing authority, an organization qualifying under article 5 of title 44, C.R.S. may obtain a single permit with duplicate copies for a particular event if such event is to be conducted in a series of separate private residences, provided such residences are in the same neighborhood and local licensing jurisdiction and the application contains the specific description or address of each of the proposed residential premises. Said permit shall not be valid for any other locations and shall be subject to the time restriction set forth in articles 3, 4, and 5 of title 44, C.R.S. Nothing herein shall permit the operation of a cash bar at any of the specified locations.

Regulation 47-1010. Special Event Permit - Possession of Beverages.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to declare that a permittee shall only allow the sale, possession, or consumption of alcohol beverages as defined within the permit's terms.

A. No special event permittee shall allow the sale, possession, or consumption of any alcohol beverages on the licensed premises when or where the sale, possession or consumption of such alcohol beverages is prohibited by the permit.

B. Except as provided by subsection 44-3-107(2), C.R.S., no person shall possess or consume on the licensed premises any beverage other than that allowed by the type of special events permit as issued.

C. Special event permittees shall only sell licensed beverages by the drink to persons for consumption on the licensed premises.

Regulation 47-1012. Special Event Permit – Permitted Age of Servers.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to establish age requirements for alcohol beverage employees, agents, or volunteers under a special event permit.

A. No person under eighteen (18) years of age may sell, serve, dispense or handle alcohol beverages.

B. Malt, vinous, and spirituous liquors special event permittees may permit a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age to sell, serve, dispense, or handle alcohol beverages when said person is under the direct supervision of a person who is at least twenty-one (21) years of age.

C. Fermented malt beverage special event permittees may permit a person who is at least eighteen (18) years of age to sell, serve, dispense, or handle fermented malt beverages.

Regulation 47-1014. Special Event Permit - Complaint against Permittee-Cancellation-Revocation of Permit.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(E), C.R.S. The purpose of this regulation is to establish general processes and procedures required for the licensing authority to suspend, revoke, or deny future applications of, a special event permit for violations of certain laws, rules, or regulations.

Upon inspection, notice, and hearing, the state or local licensing authority may suspend or revoke a special event permit and may further order the denial of future applications for another special event permit submitted by the same organization.

Regulation 47-1016. Special Event Permittee - Purchase and Storage of Alcohol Beverages.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(K), C.R.S. The purpose of this regulation is to establish purchasing and storage requirements for a special event permit.

Special event permittees may purchase the kinds of alcohol beverages they are authorized by such permits to sell from a licensed wholesaler, brewpub, distillery pub, limited winery, vintner's restaurant, retail liquor store, or liquor-licensed drugstore.

Permit holders may store alcohol beverage stock in areas outside the designated event area approved by the respective licensing authorities under the following conditions:

A. Special event permittees may purchase alcohol beverages authorized by such permits from a licensed wholesaler, brew pub, distillery pub, limited winery, vintner's restaurant, retail liquor store, or liquor-licensed drugstore.

B. Special event permittees may store alcohol beverage stock in areas outside the designated event area approved by the state or local licensing authority under the following conditions:

1. The application included the address of proposed storage locations and a diagram of said premises.

2. The application included evidence of the special event permittee's lawful possession of the storage premises by way of deed, lease, rental, or other arrangement and specifying the terms of storage.

3. The proposed location is not a location licensed pursuant to articles 3 or 4 of title 44, C.R.S.

4. State and local law enforcement authorities have the right to inspect each storage area that is used for permitted events.

5. Storage areas may only be maintained in anticipation of scheduled events. Nothing herein shall authorize long-term storage of alcohol beverages that have no nexus to events.

6. A licensed wholesaler may deliver alcohol beverages purchased by a special event permittee to the storage location in accordance to subsections (B)(1), (B)(2), (B)(3), and (B)(4) of this regulation, but such storage cannot be more than two (2) business days prior to the date for the special event. If a licensed wholesaler donates alcohol to the special event permittee, the wholesaler may pick up such unused donated alcohol beverage products from the storage area in accordance to subsections (B)(1), (B)(2), (B)(3), and (B)(4) of this regulation. Such removal of unused donated alcohol beverage products must occur within two (2) business days after the end of the special event permit.

Regulation 47-1018. Special Event Permittee - Supplier Financial Assistance.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(G), C.R.S. The purpose of this regulation is to clarify permitted and prohibited support and/or services offered by suppliers to organizations holding a special event permit.

A. Licensed suppliers may furnish financial support and/or services to organizations, that qualify for a special events permit. Any furnished financial support and/or services shall be in connection with public service or non-profit fundraising activities including, but not limited to, events such as:

1. Fairs,

2. Sporting events,

3. Agricultural exhibitions,

4. Educational clinics,

5. Concerts, and

6. Other similar events.

B. A supplier may furnish or share the cost of advertisements, signs, promotional materials and items of a similar nature used in connection with a non-profit special events permit.

C. Support shall not be conditioned, directly or indirectly, upon the present or future purchase of an alcohol beverage or the exclusive sale of a supplier's product at such events.

Regulation 47-1020. Alcohol Beverage Donations.

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(G), C.R.S. The purpose of this regulation is to clarify permitted alcohol beverage donations and associated conditions.

A. For purposes of this regulation, "wholesaler" means an entity licensed to sell alcohol beverages at wholesale to special event permit holders, including wholesalers of malt liquor and fermented malt beverages, wholesalers of vinous and spirituous liquors, limited wineries, brew pubs, distillery pubs and vintner's restaurants.

B. A wholesaler may donate alcohol beverages to a special event permittee at no cost if such alcohol beverages are used for hospitality or fundraising purposes, including resale by the drink. The wholesaler shall provide an invoice documenting the donation of alcohol beverages to the permittee and shall ensure that all applicable state excise taxes are paid pursuant to section 44-3-503, C.R.S.

C. Nothing herein shall prohibit a retailer licensed for off-premises consumption to make a donation of alcohol beverage to a special event permittee, as long as such donation is taken from the retailer's existing inventory.

D. Wholesalers and retailers licensed for off-premises consumption may make a donation of alcohol beverages to organizations that would otherwise qualify for a special events permit but are exempted under section 44-5-108, C.R.S. The wholesaler shall provide an invoice documenting the donation of alcohol beverages to the organization and shall ensure that all applicable state excise taxes are paid pursuant to section 44-3-503, C.R.S. However, nothing herein shall authorize a wholesale licensee to deliver such alcohol beverages to premises that are not licensed pursuant to articles 3 or 4 of title 44, C.R.S.

E. When an event, for which the alcohol donations are solicited, is held at a retail location licensed for on-premises consumption pursuant to article 3 or 4 of title 44;

1. The wholesaler shall invoice the retailer at no cost for alcohol beverages intended for the event, if the retail licensee consents to such an arrangement.

2. Any such donated alcohol beverages which are unused must be returned by the retailer to the wholesaler as soon as practicable after the event.

3. If the unused alcohol beverages are not returned, then the wholesaler must charge the retailer at least the laid-in cost for those alcohol beverages.

4. The retail value of any donation of alcohol beverages from a retailer licensed for off-premises consumption to a non-profit event held at a retail location licensed for on-premises consumption will count against the on-premises licensee's statutory dollar limit of alcohol beverages purchased from an off-premises retailer.

Regulation 47-1022. Donated Alcohol Beverages in Sealed Containers for Auction For Fundraising Purposes.

A. For purposes of subsection 44-3-107(2), C.R.S., "donated" or "otherwise lawfully obtained" alcohol beverages mean:

1. Alcohol beverages donated pursuant to Regulation 47-1020, 1 C.C.R. 203-2; or

2. Alcohol beverages donated by a private individual who is at least twenty-one (21) years of age and lawfully obtained the alcohol beverages she or he is donating; or

3. Alcohol beverages donated by an entity that does not hold a liquor license pursuant to articles 3 or 4 of title 44, C.R.S. and lawfully obtained the alcohol beverages it is donating. The agent or representative of the donating entity must be a private individual who is at least twenty-one (21) years of age and lawfully obtained the alcohol beverages she or he is donating.

Regulation 47-1101. Delivery and Takeout Sales By On-Premises Licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44- 3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-911 and 24-4-104(4)(a), C.R.S. The purpose of this regulation is to exercise proper regulation and control over the manufacture, distribution and sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State. This regulation establishes a permit for on-premises licensees authorized to engage in such sales by section 44-3-911, C.R.S., which temporarily allows certain licensees to sell alcohol beverages through delivery and takeout through July 1, 2021, the date section 44-3-911, C.R.S. is automatically repealed, to provide relief to licensees impacted by COVID-19. This regulation also addresses age verification, container, and other requirements and related recordkeeping for alcohol beverages sold through delivery or takeout by on premises licensees authorized to engage in such sales by section 44-3-911, C.R.S.

A. The requirements of this Regulation 47-1101 apply to persons issued a license under sections 44-3-402 or 44-3-407, C.R.S., that operate an approved sales room and persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III), C.R.S.

B. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III), C.R.S., may sell alcohol beverages through takeout or delivery pursuant to section 44-3-911, C.R.S., unless the licensee has first obtained a permit from the state licensing authority and paid the relevant fee established in regulation 47-506.

1. If a person issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III), C.R.S, applies for a takeout and delivery permit while a disaster emergency declared by the governor under part 7 of article 33.5 of title 24 is in effect, that person may continue engaging in takeout and delivery sales once the disaster emergency is rescinded or expired. However, the licensee shall cease all takeout and delivery sales if the state or local licensing authority denies the licensee's application for a takeout or delivery permit.

2. An applicant for a permit must affirm on its takeout and delivery permit application that the applicant derives, or will derive, no more than fifty (50) percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and that the licensee delivers.

a. this subparagraph (B)(2) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; and

b. nothing within this subparagraph (B)(2) shall limit the authority of the state licensing authority or the local licensing authority, if applicable, to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify the affirmation or compliance with this statutory requirement.

3. A takeout and delivery permittee shall display its takeout and delivery permit at all times in a prominent place on its licensed premises. The takeout and delivery permittee's employee making a delivery shall be required to carry, or have immediate access to, a copy of the takeout and delivery permit in the delivery vehicle. The copy of the permit may be electronic.

C. If the relevant local licensing authority creates a permit for takeout and delivery pursuant to section 44-3-911(4)(C), C.R.S., no persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III), C.R.S., may engage in sales of alcohol beverages through takeout or delivery unless the licensee holds takeout and delivery permits from both the state and local licensing authorities.

1. This subparagraph (c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24.

D. Any licensee authorized to engage in sales of alcohol beverages through delivery or takeout pursuant to section 44-3-911, C.R.S., and this regulation shall comply with the following requirements and limitations, to the extent consistent with any such executive order(s):

1. Orders for delivery or takeout that include alcohol beverages may be accepted by only the licensee or its employees at the licensed premises, which may be accepted by telephone, in person, or via internet communication. No order for delivery may be solicited or accepted by a delivery driver or from a delivery vehicle. All orders for delivery shall be documented in a written order prepared by the licensee or its employees.

2. The person placing a takeout or delivery order must provide the licensee with their name, and date of birth, and the delivery address for a delivery order. When receiving a takeout order, the licensee must obtain and record the name and date of birth of person placing the order. When receiving a delivery order, the licensee must obtain and record the name and date of birth of the person placing the order and the delivery address for the order. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for takeout or delivery of alcohol beverages.

3. Delivery of orders that include alcohol beverages shall be made only to a person twenty-one (21) years of age or older at the address specified in the customer's delivery order.

4. Delivery of orders that include alcohol beverages shall not be made to any public place, including public parks, streets, alleys, roads, or highways.

5. Delivery must be made by an employee of the licensee who is at least twenty-one (21) years of age., and who has completed a seller server training program established under section 44-3-1001, C.R.S., and maintained recertification under the requirements of Regulation 47-605. Use of third-party delivery services is prohibited.

6. The licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery the name and date of birth of the person receiving the delivery of the alcohol beverages. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.

7. Licensees who deliver alcohol beverages shall maintain all records relating to delivery, including delivery orders, receipt logs and journals, as part of their records required pursuant to section 44-3-701, C.R.S. These records shall be maintained by the licensee for the current and three prior calendar years. Failure to maintain accurate or complete records is a violation of this regulation.

8. Licensees engaged in delivery shall comply with section 42-4-1305, C.R.S., and any local laws, ordinances or regulations, addressing prohibitions on open containers of alcohol beverages in motor vehicles.

9. Any alcohol beverage sold to a consumer through delivery or takeout under this regulation, which may include cocktails or mixed drinks, shall be in a sealed container. For purposes of this regulation, "sealed container" means:

   a. Through and including October 31, 2020, a "sealed container" as defined in subsection 44-3-102(51), C.R.S., except that a cup or other container closed securely with a lid taped securely to the cup or other container shall also be considered a "sealed container" for purposes of this regulation. A plastic lid complies with this regulation so long as any holes in the lid are sealed securely with tape, no straw is inserted through the lid, and the contents of the cup are not partially removed.

   b. beginning on november 1, 2020, "sealed container" means a "sealed container" as defined in subsection 44-3-103(51), C.R.S., and shall also include a rigid container that contains a cocktail or mixed drink, or other alcohol beverage poured into the container by a licensee, is new, has never been used, has a secure lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper evident. "sealed container" does not include a container with a lid with sipping holes or openings for straws or a container made of paper or polystyrene foam. "tamper evident" means a lid or cap that has been sealed with tamper-evident material, including, but not limited to, wax dip, heat shrink wrap, or adhesive tape or other material, designed to reveal the removal or opening of the lid, cap, or seal.

10. Any sealed container containing an alcohol beverage that is sold for takeout or delivery under this regulation, other than an alcohol beverage sealed by its manufacturer, shall be affixed with an adhesive sticker identifying the licensee that sold the beverage and containing a warning statement, with a minimum fourteen (14) font size, stating as follows: "WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws and regulations prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1305, C.R.S."

11. Licensees who sell alcohol beverages through delivery or takeout pursuant to this regulation are responsible for compliance with all laws and regulations prohibiting the sale of alcohol beverages to an underage person or to a visibly intoxicated person.

E. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-418, 44-3-428, 44-4-104(1)(c)(I)(A), OR 44-4-104(1)(c)(III), C.R.S., shall sell more than the following amounts of alcohol beverage to a consumer as part of a takeout or delivery order:

   1. 750 milliliters, or approximately 26.4 fluid ounces, of spirituous and vinous liquors; and

   2. 72 fluid ounces, or approximately 2046 milliliters, of malt liquor, fermented malt beverages, and hard cider.

F. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602.

G. This regulation is repealed, effective July 1, 2021, and any takeout and delivery permit then in effect shall be deemed to have expired, without further action by the state or local licensing authorities.

Regulation 47-1102. Compliance with Public Health Orders and Executive Orders Issued During Disaster Emergencies

Basis and Purpose. The statutory authority for this regulation is located at subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, and 24-4-104(4)(a)C.R.S. In accordance with the legislative declaration of section 44-3-102, C.R.S., the Colorado Liquor Code is deemed an exercise of the police powers of the State of Colorado for the protection of the economic and social welfare and the health, peace, and morals of the people of the State of Colorado. Regulation of the manufacture, distribution, and sale of alcohol beverages is regulated by the Colorado Liquor Code as a matter of statewide concern. The purpose of this regulation is to exercise proper regulation and control over the manufacture, distribution and sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State, when public health orders are issued and during disaster emergencies.

A. All licensees, and their agents, servants and employees, shall comply with any and all applicable executive orders issued by the Governor pursuant to the Governor's disaster emergency powers under section 24-33.5-704, C.R.S., relating to businesses which manufacture, distribute, and sell alcohol beverages and operation of their licensed premises.

B. All licensees, and their agents, servants and employees, shall comply with any applicable public health orders relating to businesses which manufacture, distribute, and sell alcohol beverages and the operation of their licensed premises. For purposes of this Regulation 47-1102, licensees shall comply with all public health orders issued by the Colorado Department of Public Health and Environment ("CDPHE") and any public health orders issued by the county or municipality in which the licensed premises is located which contain more protective standards; except if the licensed premises is located in a county that obtained approval from CDPHE for a variance from the requirements of any applicable CDPHE public health orders, then the licensee shall comply with the county's approved variance.

C. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602.

Regulation 47-1103. Communal Outdoor Dining Areas To Promote Social Distancing.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-2020(2)(a)(I)(F), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, and 24-4-104(4)(a), C.R.S. Authority for this regulation also includes executive order D 2020 093. The purpose of this regulation is to address operation of communal outdoor dining areas as a temporary measure intended to promote public health, safety and welfare through greater social distancing in accordance with relevant Public Health Orders issued by the Colorado Department of Public Health & Environment.

A. For purposes of this Regulation 47-1103, "Communal Outdoor Dining Area" means an outdoor space used for food and alcohol beverage service by two or more on-premises liquor licensees, including approved sales room licensees, operating in accordance with an applicable public health order issued in response to COVID-19.

1. No licensee shall sell or serve alcohol beverages in a communal outdoor dining area unless the state and local licensing authorities have approved a temporary modification of licensed premises pursuant to Regulation 47-302(F) that includes the communal outdoor dining area.

2. A licensee shall cease selling or serving alcohol beverages in a communal outdoor dining area once the approved temporary modification of licensed premises expires or Executive Order D 2020 093—or a subsequent order extending Executive Order D 2020 093—expires, whichever occurs first.

3. Licensees selling or serving alcohol beverages in an approved communal outdoor dining area in compliance with the requirements of this Regulation 47-1103 are not subject to the restrictions in Regulation 47-302(F)(1)(b) and (d).

4. A retail food establishment that does not have a liquor license may also serve food in a communal outdoor dining area approved under this regulation 47-1103.

B. A communal outdoor dining area must be within 1000 feet of the permanent licensed premises of each of the licensees associated with the communal outdoor dining area. this distance shall be computed by direct measurement from the nearest property line of the land used for the communal outdoor dining area to the nearest portion of the building in which the permanent licensed premises is located, using a route of direct pedestrian access.

C. If allowed by the local licensing authority, all licensees who wish to be associated with a communal dining area may submit a joint application to temporarily modify their licensed premises to include the communal outdoor dining area. Each licensee is responsible for paying the modification of licensed premises fee set forth in Regulation 47-506. See also Regulation 47-302(F)(2).

D. All licensees associated with a communal outdoor dining area pursuant to this Regulation 47-1103 must adopt and agree to a security and control plan for the communal outdoor dining area that is approved by the state and local licensing authorities. The security and control plan shall ensure:

1. The licensees associated with the communal outdoor dining area have a method of identifying which licensee is selling or serving food and alcohol beverages to a particular table at any given time;

2. All customers at a table may only purchase or consume food and alcohol beverages from a single licensee associated with the communal dining area;

3. Any retail food establishments associated with the communal outdoor dining area that does not hold a liquor license acknowledges and agrees that alcohol beverages will be sold in the communal outdoor dining area only by, and under the control of, the licensees associated with the communal dining area;

4. One or more licensees will supervise or provide security within the communal outdoor dining area during all hours of operation to ensure compliance with this Regulation 47-1103 and all relevant requirements of article 3 of title 44 and the Colorado liquor rules; and

5. All licensees associated with the communal outdoor dining area agree they are jointly responsible for complying with this Regulation 47-1103 and all relevant requirements of article 3 of title 44 and the Colorado liquor rules.

E. A licensee associated with a communal outdoor dining area shall not:

1. Permit customers to leave the communal outdoor dining area with any alcohol beverage except as permitted under Regulation 47-918;

2. Permit customers to bring food into the communal dining area that was purchased outside of the communal dining area;

3. Permit takeout or delivery orders to be ordered from or delivered to the communal outdoor dining area;

4. Sell, serve, or permit consumption of alcohol beverages in the communal outdoor dining area during hours the licensed premises cannot sell alcohol under article 3 of title 44 or the limitations imposed by the local licensing authority;

5. Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of an alcohol beverage to a visibly intoxicated person or to a known drunkard;

6. Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, or giving of an alcohol beverage to a person under twenty-one years of age;

7. Permit a visibly intoxicated person to remain within the communal outdoor dining area without an acceptable purpose; or

8. Permit a person to consume an alcohol beverage within the communal outdoor dining area unless it was purchased within the communal outdoor dining area from a licensee associated with the communal outdoor dining area.

F. Licensees associated with a communal outdoor dining area shall promptly remove all alcohol beverages from the communal outdoor dining area at the end of the hours of operation.

G. This Regulation 47-1103 does not apply to a special event permit issued under article 5 of title 44 unless the permit holder desires to use an existing communal outdoor dining area and agrees in writing to the requirements of article 3 of title 44 and the local licensing authority concerning the communal outdoor dining area.

H. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602. *See also* Regulation 47-1102 Compliance with executive orders and public health orders issued during disaster emergencies.

Editor's Notes

History

Regulations 47-304, 47-428, 47-600, 47-906, 47-912, 47-918 eff. 06/30/2008.

Regulations 47-302, 47-416 eff. 07/01/2008.

Regulations 47-316, 47-320, 47-322, 47-432 eff. 03/30/2009.

Regulation 47-432 emer. rule eff. 06/22/2009.

Regulation 47-432 emer. rule eff. 08/28/2009.

Regulation 47-432 eff. 11/20/2009.

Regulation 47-323 emer. rule eff. 10/28/2010.

Regulations 47-008, 47-904, 47-914, 47-924, 47-930 emer. rules eff. 01/10/2011; repealed regulations 47-002, 47-004, 47-006 emer. rules eff. 01/10/2011.

Regulation 47-323 emer. rule eff. 02/25/2011.

Regulation 47-323 eff. 03/03/2011.

Regulations 47-002, 47-004, 47-006, 47-008, 47-904, 47-914, 47-924, 47-930 emer. rule eff. 03/03/2011; expired eff. 07/01/2011.

Regulations 47-100, 47-200, 47-300, 47-302, 47-303, 47-307, 47-308, 47-309, 47-312, 47-314, 47-316, 47-322, 47-326, 47-408, 47-410, 47-412, 47-414, 47-418, 47-605, 47-900, 47-913, 47-1000, 47-1002, 47-1004, 47-1006, 47-1008, 47-1010, 47-1012, 47-1014, 47-1016, 47-1018, 47-1020 eff. 05/30/2012.

Regulation 47-408.A.1 eff. 01/30/2013.

Regulations 47-302.D, 47-310.G, 47-312.B, 47-316.A.1, 47-316.B.4.a.i, 47-322.E.1.c-d, 47-418.D-E, 47-503, 47-918.A eff. 02/14/2014.

Regulation 47-506 emer. rule eff. 01/01/2015.

Regulations 47-312.C-D, 47-328, 47-506, 47-601, 47-604, 47-605.F, 47-912.A.4, 47-912.A.7 eff. 02/14/2015.

Regulations 47-100.B, 47-100.F, 47-302.D, 47-303.F, 47-303.G, 47-304.E, 47-316.C, 47-322, 47-322.A.5.c, 47-322.F.3.f, 47-323.A.2, 47-400, 47-408.B-D, 47-412.E, 47-418.D-E, 47-424, 47-426.B.4, 47.428, 47-500, 47-902, 47-904.C, 47-904.F, 47-906.B, 47-908.C, 47-942, 47-1016, 47-1016.F, 47-1020.A eff. 02/14/2016.

Regulation 47-506 emer. rule eff. 07/01/2016.

Regulation 47-506 eff. 10/01/2016.

Regulations 47-006, 47-100, 47-200, 47-302, 47-304 - 47-306, 47-310 - 47-312, 47-316 - 47-319, 47-322, 47-323, 47-328, 47-400, 47-407, 47-408, 47-410, 47-414, 47-416, 47-700, 47-900, 47-904, 47-912, 47-913, 47-918, 47-940, 47-942, 47-1020 eff. 01/01/2017. Regulation 47-506 emer. rule eff. 01/01/2017.

Regulation 47-506 eff. 04/14/2017.

Regulation 47-506 emer. rule eff. 07/01/2017.

Regulation 47-506 eff. 10/15/2017.

Regulation 47-100.J, 47-303, 47-310, 47-312.F, 47-322, 47-323, 47-326.B.6, 47-416, 47-426, 47-502.A.2, 47-600.G-H, 47-700, 47-902, 47-904, 47-905, 47-908, 47-913, 47-916, 47-918, 47-920, 47-926, 47-940, 47-942, 47-1000, 47-1002, 47-1006, 47-1012.B eff. 03/02/2018. Regulation 47-300.B repealed eff. 03/02/2018.

Regulation 47-506 emer. rule eff. 08/01/2018.

Regulation 47-506 eff. 11/14/2018.

Regulations 47-009, 47-010 emer. rules eff. 12/05/2018.

Regulations 47-008, 47-100, 47-104, 47-313, 47-315, 47-321, 47-322, 47-326, 47-426, 47-506, 47-901, 47-904, 47-913, 47-918, 47-1000, 47-1010, 47-1012, 47-1022 emer. rules eff. 01/01/2019. Regulations 47-002, 47-006, 47-930 emer. rules repealed eff 01/01/2019. Regulation 47-322.L expired 04/26/2019.

Regulations 47-004, 47-008 - 47-010, 47-100, 47-104, 47-200, 47-301 - 47-307, 47-310, 47-313 - 47-316, 47-318, 47-319, 47-321, 47-322, 47-326, 47-407, 47-418, 47-426, 47-428, 47-432, 47-500, 47-506, 47-600, 47-601, 47-605, 47-700, 47-900, 47-901, 47-904, 47-905, 47-913, 47-914, 47-918, 47-924, 47-926, 47-1000, 47-1002, 47-1010, 47-1012, 47-1014, 47-1016, 47-1018, 47-1020, 47-1022 eff. 03/30/2019. Regulations 47-002, 47-006, 47-930 repealed eff. 03/30/2019.

Regulation 47-322.L emer. rule eff. 06/27/2019.

Regulation 47-506 emer. rule eff. 10/01/2019.

Regulation 47-322.L eff. 10/15/2019.

Regulations 47-304, 47-307, 47-309 - 47-324, 47-326, 47-328, 47-400, 47-402, 47-406, 47-407, 47-901, 47-912 eff. 01/01/2020.

Regulation 47-506 eff. 01/14/2020.

Regulation 47-912 eff. 03/16/2020.

Regulation 47-1101 emer. rule eff. 04/01/2020; expired 07/30/2020.

Regulations 47-302.F, 47-1102 emer. rules eff. 05/15/2020. Regulation 47-1102 expired 09/12/2020.

Regulation 47-1103 emer. rule eff. 06/05/2020.

Regulation 47-322.F eff. 07/30/2020. Regulations 47-603, 47-1101 emer. rules eff. 07/30/2020.

Regulation 47-302.F emer. rule eff. 09/11/2020.