

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 47-100. Definitions.

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)(l)(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.
- P. “Communal Outdoor Dining Area” means an outdoor space that is used for food and alcohol beverage service by two or more licensees licensed under article 3 or article 4 of title 44, C.R.S. as a:
 - 1. Tavern;
 - 2. Hotel and Restaurant;
 - 3. Brew Pub;
 - 4. Distillery Pub;
 - 5. Vintner’s Restaurant;
 - 6. Beer and Wine Licensee;
 - 7. Manufacturer that operates a sales room authorized under section 44-3-402(2) or (7), C.R.S.;
 - 8. Beer wholesalers that operates a sales room under section 44-3-407(1)(b)(I), C.R.S.;
 - 9. Limited Winery;
 - 10. Lodging and Entertainment Facility;
 - 11. Optional Premises; or
 - 12. Fermented Malt Beverage Retailer licensed for consumption on the premises.

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

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 44-3-104(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.R.S.

- 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 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 includes, but is not limited to, 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 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 within forty-five (45) days of receiving such petition and set forth its position and the reasons therefore, or the grounds on which the division declines to provide a statement of position, pursuant to section 24-4-105(11), C.R.S., and/or paragraph (G) of this regulation.
- 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 final 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, amended by the division, 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 includes, but is not limited to, subsections 44-3-202(1)(a), 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 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 47-302. 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.
8. The addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.
9. Modification of the licensed premises to include a communal outdoor dining area, subject to the requirements of section 44-3-912, C.R.S.. and Regulation 47-1103.
- 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, including the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).

- E. The state licensing authority shall NOT 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, except for applications to modify the premises through the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.
- 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 paragraph (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 paragraph (F) shall expire on May 31, 2022, unless the relevant local licensing authority imposes an earlier expiration date. 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 paragraph (F).
 - 4. Nothing in this regulation requires a local licensing authority to allow temporary premises modifications in response to COVID-19. A local licensing authority that allows temporary premises modifications may establish an earlier expiration date for any temporary

modifications issued in the relevant jurisdiction and may establish additional requirements for temporary modifications that are at least as restrictive as the requirements in this paragraph (F).

5. This subsection (F) is effective until May 31, 2022 and is repealed effective June 1, 2022.

Regulation 47-303. License Renewal.

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)(C), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-302, 44-3-501, and 44-4-105, 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. At least ninety (90) days before the expiration date of an existing license, the State Licensing Authority shall notify the licensee of the expiration date by sending notice to the most recently provided email address and/or mailing address for the licensee.
- C. 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.
- D. Nothing herein authorizes a licensee to purchase, sell, or serve alcohol beverages with an expired license, except as authorized in subparagraphs E, F(2), and G(3) of this regulation. Licensed privileges are not restored until and unless the applicable requirements of subparagraph F(2) and/or G(3) of this regulation are met.
- E. 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.
- F. 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.
- G. 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 applying for a reissued license may resume operation pending final agency action by all of the relevant licensing authorities to approve or deny the licensee's application only if:
 - a. The local licensing authority, or state licensing authority for state-only licensee, allows the licensee to apply for a reissued license;
 - b. The licensee submits the application, along with payment for the required fees and fines, to the local licensing authority or the state licensing authority for state-only licensees; and
 - c. The local licensing authority, or the state licensing authority for state-only licenses, accepts the reissued license application and required fees and fines.
- H. 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.
- I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local licensing authorities for an application for the late license renewal pursuant to paragraph (F) of this regulation, or for an application for new license of reissued license pursuant to paragraph (G) of this regulation, may continue to possess its alcohol beverage inventory.

Regulation 47-305. Transfers – Wholesaler Confirmation.

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), 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 may be delivered via email, so long as the applicant can prove receipt of the email by the wholesaler. If the applicant cannot prove receipt by email, 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 47-312. 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 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 of its licensed premises, 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.
 - 1. 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 pursuant to section

44-3-312(2)(a), C.R.S., the needs of the neighborhood need not be considered for a change of location for a club license.

2. 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 the location of its licensed premises, 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.
1. 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.
2. 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.

- I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local and state licensing authorities to change the location of its licensed premises, may continue to possess its alcohol beverage inventory for sale at the new location.

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.

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- 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(l), 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(l), 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.

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- 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 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, with retailer consent, 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, or with a product from the same manufacturer's portfolio that is equal to or lesser in value to the original purchase.
 - v. 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:

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- 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 provided as an inducement, or require purchase of alcohol beverages.
 2. 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.

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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 47-422. Arts 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)(R), and 44-3-419, 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

- A. For the purposes of determining eligibility for an arts license pursuant to section 44-3-419, C.R.S., "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.
- B. 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. REPEALED

Regulation 47-426. Delivery Sales by Off-Premises Licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-4-107(1)(c), 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), 44-3-409(3), 44-3-410(3), and 44-3-601, 44-3-701, 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 sixty (60) days. 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 includes, but is not limited to, subsections 44-3-103(49), 44-3-202(1)(b), 44-3-202(a)(I)(R), 44-3-202(2)(a)(I)(T), 44-3-402, 44-3-403, and 44-3-407, 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 application for approval or denial.

- 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 a 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 is 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 is 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 subsections 44-3-103(19)(a), (19)(b), or (19)(d), C.R.S.
- 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 with 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.
- M. A winery licensed pursuant to section 44-3-402, C.R.S. whose licensed premises includes multiple noncontiguous locations may operate a sales room on its primary licensed premises, and on no more than one of the noncontiguous locations.
 - 1. A winery licensed pursuant to section 44-3-402, C.R.S., may only operate a sales room on one of the noncontiguous locations if the sales room is approved in accordance with the process outlined in section 44-3-402(2)(c), C.R.S.
 - 2. A winery licensed pursuant to section 44-3-402, C.R.S. that operates a sales room on the primary licensed premises and one of the noncontiguous locations may not operate another sales room at any location.
- N. A limited winery licensed pursuant to section 44-3-403, C.R.S. whose licensed premises includes multiple noncontiguous locations may operate a sales room on its primary licensed premises and on no more than one of the noncontiguous locations.
 - 1. A limited winery may only operate a sales room on one of the noncontiguous locations of the licensed premises if the sales room is approved as one of the licensee's additional sales

rooms allowed under section 44-3-403(2)(e)(i)(a), C.R.S., in accordance with the process outlined in section 44-3-403(2)(e)(ii), C.R.S.

2. A limited winery that operates a sales room on its primary licensed premises and one of the noncontiguous locations may only operate additional sales rooms at up to four other approved locations.

Regulation 47-434. Winery and Limited Winery Licensed Premises That Include Noncontiguous Locations.

Basis and Purpose. The statutory authority for the regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(R), 44-3-301(2)(c), 44-3-301(11)(d), 44-3-402(2)(a), and 44-3-403-(2)(e)(I)(A), C.R.S. The purpose of this regulation is to clarify and establish requirements for a winery to obtain approval for and maintain a licensed premises that include noncontiguous locations.

- A. If approved by the state licensing authority, the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S., may include, in addition to the primary licensed premises, up to two noncontiguous locations within a radius of ten miles of the primary original licensed premises. Any approved noncontiguous locations must also be used for manufacturing purposes.
- B. The state licensing authority may approve a winery's licensed premises that includes the primary licensed premises and up to two noncontiguous locations through the winery's initial application for a license pursuant to 44-3-402 or 44-3-403, C.R.S., or through a modification of the premises pursuant to Regulation 47-302.
 1. The Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury must have approved the description and diagram of the proposed or modified premises.
 2. In order to obtain approval for a licensed premises that includes a noncontiguous location, an applicant or licensee must submit proof from the municipality in which the proposed premises is located in compliance with all applicable zoning, building, fire, and other requirements for occupancy and operation.
- C. A winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S., may be part of an entertainment district or common consumption area. However, if the winery's licensed premises includes multiple noncontiguous locations, any noncontiguous location included in the licensed premises that falls outside of the approved boundaries of the entertainment district or common consumption area shall not be included in the certified promotional association or entertainment district.
- D. A winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S., with a licensed premises that includes multiple noncontiguous locations may operate one or more sales rooms to the extent permitted by sections 44-3-402(2)(a) or 44-3-403(2)(e)(1)(A), C.R.S., and Regulation 47-428.

Regulation 47-500. Excise Taxes, Surcharges, and Fees Audits.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, 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 manufacturers (as defined in Regulation 47-100(B) and (C)), holders of a winery direct shipper's permit, 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 manufacturer, holder of a winery direct shipper's permit, or wholesaler shall have paid more taxes, surcharges, penalties, or interest than was actually due, the Department of Revenue shall issue to that manufacturer, holder of a winery direct shipper's permit, or wholesaler a tax credit form reflecting the amount of overpayment. The manufacturer, holder of a winery direct shipper's permit, 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 manufacturer, holder of a winery direct shippers permit, or wholesaler shall have paid less taxes, surcharges, fees, penalties, or interest than was actually due, the Department of Revenue shall issue to that manufacturer, holder of a winery direct shippers permit, or wholesaler a notice of assessment form reflecting the amount of underpayment. The manufacturer, holder of a winery direct shipper's permit, or wholesaler must return the assessment form, along with the remittance, payable to the Department of Revenue.

Regulation 47-502. Excise Taxes, Surcharges, and Fees Reports.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, 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 excise taxes, surcharges, and fees.

- A. Manufacturers, wholesalers, and holders of a winery direct shipper's permit.

- 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, surcharges, and fees - 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, surcharges, and fees due shall accompany the filing of form DR 0442.

- 3. Reporting and payment of excise taxes, surcharges, and fees - 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, surcharges, and fees have previously been paid.

All Colorado licensed wholesalers receiving alcohol beverages, where the excise taxes, surcharges, and fees 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, surcharges, and fees 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. Reporting and payment of excise taxes, surcharges, and fees – Holders of a winery direct shipper's permit.

Each out-of-state winery must file with the Department of Revenue a separate return, on Form DR 0448, for each location with a Colorado Winery Direct Shipper's Permit. Form DR 0448 must be filed on or before the 20th of the month succeeding the month reported. Payment of excise taxes, surcharges, and fees due shall accompany the filing of form DR 0448.

6. Excise taxes, surcharges, and fees - credits, refunds.

- a. A Colorado manufacturer who transmits outside the state and there disposes of any alcohol beverages, upon which no state excise taxes, surcharges, and fees have 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 taxes, surcharges, or fees have 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, surcharges, or fees 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, surcharges, and fees 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, surcharges, and fees paid on any alcohol beverages rendered unsalable by reason of spoilage.
- c. All claims for exemptions from excise taxes, surcharges, fees 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, holder of a winery direct shipper's permit, 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 47-504. Payment of Excise Taxes by Non-licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, 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 taxes, surcharges, and fees payment and collection required of certain non-licensees.

- A. Persons twenty-one years of age or older, not licensed pursuant to this article, arriving at any airport in this state on an air flight originating in a foreign country who is thereby subject to customs clearance at the airport, may lawfully possess up to one gallon or four liters (one imperial gallon), whichever measure is applicable, of an 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 imperial 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 and fees 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, surcharges, and fees on such vinous liquors.

Regulation 47-600. Complaints against Licensees – Suspension, Revocation, and Fining of 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)(A), 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 general processes and procedures required for the licensing authority to suspend, revoke, or fine 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 reasonable 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, revoked, or fined. Notice of discipline by the state licensing authority shall be issued pursuant to the procedures set forth in Regulation 47-606.
- 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. Hearings for the state licensing authority shall be conducted in accordance with the procedures set forth in Regulation 47-606. 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, evidence and statements in mitigation and/or aggravation of the offense shall also be permitted.

- D. In the event the licensee is found not to have violated any law, rule or regulation, the charges against the licensee will be dismissed. If the licensee is found to have violated some law, rule or regulation, the licensee's license may be suspended, revoked, or fined. When making a determination to suspend, revoke, or fine a license—including the amount of fine to impose—a licensing authority shall consider the severity of the violation(s) based on the provisions established in Regulation 47-603.
- E. 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.

- F. 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.
- G. For purposes of calculating a fine to be paid, including in lieu of an active suspension, "between", as used in subsections 44-3-601(1)(c) and 44-3-601(3)(b), C.R.S., shall include the minimum and maximum fine amounts permitted by statute.

Regulation 47-601. Written Warnings and Assurances of Voluntary Compliance.

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)(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. Assurance of Voluntary Compliance. 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 Colorado Liquor Rules, by a licensee who has engaged in, is engaging in, or is about to engage in such acts or practices.
1. The Assurance of Voluntary Compliance must be in writing and may include a stipulation for the voluntary payment of the costs of the investigation.
 2. 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, the Assurance of Voluntary Compliance shall constitute evidence in any subsequent administrative proceeding that licensee entered into an agreement to comply with articles 3, 4, or 5 of title 44, C.R.S. and/or the Colorado Liquor Rules.

3. An Assurance of Voluntary Compliance shall not exceed nine (9) months from the date of executed agreement.
4. The state or local licensing authority may approve or review an Assurance of Voluntary Compliance executed by their respective agencies.
- B. Written Warnings. During an investigation, if the Division identifies a violation(s) of articles 3, 4, or 5 of title 44, C.R.S., or the Colorado Liquor Rules, the Division may issue a written warning in lieu of recommending immediate administrative action.
 1. The written warning shall identify the alleged violation(s).
 2. The written warning shall not constitute an admission of a violation(s) for any purpose of finding of a violation(s) by the state or local licensing authority, and shall not be evidence that the licensee violated articles 3, 4, or 5 of title 44, C.R.S., or the Colorado Liquor Rules.
 3. A written warning shall constitute evidence in any subsequent administrative proceeding, if relevant, that the licensee was previously warned of the violation(s).
 4. The Division may, in its discretion, initiate a subsequent administrative action and prove the violation(s) that was the subject of the written warning.
- C. Neither a written warning nor an Assurance of Voluntary Compliance constitutes a disciplinary action.

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 includes, but is not limited to, 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
 - d) Poly-substance interactions, including but not limited to, interaction with marijuana, prescriptions and over-the-counter medication, and other substances.
 - 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, including identifying signs of visible alcohol and drug impairment.
 - 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
 - m) On-premises and off-premises delivery and takeout rules
 - n) Commonly arising issues with delivery and takeout sales
- 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 paragraphs B and C of this regulation.
 - 2) Combined training programs must include all of the curriculum contained in paragraphs 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 subparagraph 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 subparagraphs 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 two (2) years, inclusive of a grace period of thirty (30) days.
 - 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, including virtually through a live program, 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 recertification 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 affect 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 47-606. Disciplinary and Denial Process for State Licensing Authority

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, sections 44-3-202(1)(b), 44-3-202(1)(c), 44-3-202(1)(d), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-901, 24-4-104, and 24-4-105, C.R.S The purpose of this regulation is to establish what entity conducts the administrative hearings for the state licensing authority, the procedures governing administrative hearings, and other general hearings issues

A. Initiation of Disciplinary Actions.

- 1. If the state licensing authority, on its own initiative or based on a complaint, has reasonable cause to believe that a licensee has violated the Liquor Code, the Beer Code, the Special Event Code, the Colorado Liquor Rules, or any of the state licensing authority's orders, the state licensing authority shall issue and serve upon the licensee an order to show cause as to why its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.
- 2. The order to show cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.
- 3. A respondent that has been served with an order to show cause shall be entitled to a hearing regarding the matters addressed therein.

B. License Denials.

- 1. If the state licensing authority denies an application, the state licensing authority shall inform the applicant in writing of the reasons for the denial in a notice of denial, mailed to the denied applicant at the last-known address as shown by the records of the Division and to the local licensing authority if a local license has been granted. A notice of denial shall be deemed to have been received three days after the date of mailing, if sent by mail.

2. A denied applicant that has been served with a notice of denial may request a hearing within the time set forth in the notice of denial by making a written request for a hearing to the Division. The request must be submitted by United States mail, by hand delivery, or by email at dor_led_legal@state.co.us. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of denial. An untimely request for hearing will not be considered.
 3. A denied applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial and shall be entitled to a hearing regarding the matters addressed therein.
- C. General Procedures – Administrative Hearings.
1. Hearing Location. Hearings will generally be conducted by the Department of Revenue's Hearings Division. Hearings will be held virtually, unless otherwise ordered by the hearing officer for good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Good cause for in-person hearings includes unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person.
 2. Scope of Hearing Regulations. This Regulation shall be construed to promote the just and efficient determination of all matters presented.
 3. Right to Legal Counsel. Any denied applicant or respondent has a right to legal counsel throughout all processes described in regulations associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the denied applicant's or respondent's expense. Unless a denied applicant or respondent is an entity that satisfies the exception in section 13-1-127(2), C.R.S., the denied applicant or respondent must be represented by an attorney admitted to practice law in the state of Colorado.
- D. When a Responsive Pleading is Required.
1. A respondent shall file a written answer with the hearings division and the Division within 30 days after the date of mailing of any order to show cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Regulation, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.
 2. A denied applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a denied applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that person pursuant to section 24-4-105(2)(b), C.R.S. For good cause shown, as described in this Regulation, the hearing officer may set aside the entry of default within ten days after the date of such entry.
- E. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the denied applicant or Respondent in writing by electronic mail or, if an electronic mail address is unknown, by first-class mail to the last mailing address of record.
2. Notice of Hearing. The Hearings Division shall notify the Division and denied applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.
 - A. If an order of summary suspension has been issued pursuant to Regulation 47-602, the hearing on the order to show cause will be scheduled and held promptly.
 - B. Continuances may be granted for good cause, as described in this Regulation, shown. A motion for a continuance must be timely.
 - C. Good Cause for Continuance. Good cause for a continuance may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause for a continuance normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.
 - F. Prehearing Matters Generally.
 1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the hearing officer's own motion. If a prehearing conference is held and a prehearing order is issued by the hearing officer, the prehearing order will control the course of the proceedings. Such prehearing conferences will be held virtually or by telephone, unless otherwise ordered by the hearing officer.
 2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with paragraphs (E)(2)(b) and (c) of this Regulation.
 3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and

serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the hearing officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

- A. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.
- B. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.
- C. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and denied applicant or respondent using letters.
- D. Stipulations. A list of all stipulations of fact or law reached.
- 4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.
- 5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.
- G. Conduct of Hearings.
 - 1. The hearing officer shall cause all hearings to be electronically recorded.
 - 2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.
 - 3. The hearing officer shall administer oaths to all witnesses at hearing. The hearing officer may question any witness.
 - 4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.
- A. Reports and other information that would otherwise be confidential pursuant to subsection 44-3-202(1)(d), C.R.S., may be introduced as exhibits at hearing.
- B. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.
- 5. Court Rules.

- A. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word “court,” “judge,” or “jury” appears in the Colorado Rules of Evidence, such word shall be construed to mean a hearing officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.
 - B. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word “court” appears in a rule of civil procedure, that word shall be construed to mean a hearing officer.
6. Exhibits.
- A. All documentary exhibits must be paginated by the party offering the exhibit into evidence.
 - B. The Division shall use numbers to mark its exhibits.
 - C. The denied applicant or respondent shall use letters to mark its exhibits.
7. The hearing officer may proceed with the hearing or enter a default judgment if any party fails to appear at hearing after proper notice.
- H. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an initial decision subject to review by the state licensing authority pursuant to the Colorado Administrative Procedure Act and this paragraph H.
1. Exception(s) Process. Any party may appeal an initial decision to the State licensing authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the initial decision to the denied applicant or respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these regulations shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the state licensing authority is: state licensing authority, 1707 Cole Boulevard, Suite 350, Lakewood CO 80401.
2. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the state licensing authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

3. Deadline Modifications. The state licensing authority may modify deadlines and procedures related to the filing of exceptions to the initial decision upon motion by either party for good cause shown.
4. No Oral Argument Allowed. Requests for oral argument will not be considered.
- I. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the state licensing authority, or with conflicts counsel representing the hearing officer or state licensing authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the state licensing authority in connection with a hearing or with the exceptions process.
- J. Liquor Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Regulation 47-607. Administrative Subpoenas

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, sections 44-3-202(1)(b), 44-3-202(1)(c), 44-3-202(1)(d), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), 44-3-601, and 24-4-105, C.R.S. The purpose of this regulation is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process.

- A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the notice of denial or order to show cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.
- B. Hearing Officer May Issue Subpoenas.
 1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.
 2. Requests for subpoenas to be issued by the hearing officer must be emailed to the Hearings Division of the Department of Revenue at dor_regulatoryhearings@state.co.us. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.
 3. Requests for subpoenas to be issued by the hearing officer must be made on a "Request for Subpoena" form authorized and provided by the Hearings Division. A hearing officer shall not issue a subpoena unless the request contains the following information:
 - A. Name of denied applicant or respondent;
 - B. License or application number;
 - C. Case number;
 - D. Date of hearing;

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- E. Location of hearing, including information necessary to access virtual proceedings, or telephone number for telephone check-in;
 - F. Time of hearing;
 - G. Name of witness to be subpoenaed; and
 - H. Mailing address of witness (home or business).
- 4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.
 - 5. Requests for subpoenas shall be signed by the requesting party or its counsel.
 - 6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.
- C. Service of Subpoenas.
 - 1. Service of any subpoena is the duty of the party requesting the subpoena.
 - 2. All subpoenas must be served at least two business days prior to the hearing.
- D. Subpoena Enforcement.
 - 1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the hearing officer.
 - 2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Regulation 47-904. Product Labeling, Substitution, Sampling and Analysis.

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)(1)(M), and 44-3-202(2)(a)(1)(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 alcohol beverage bottles with labels removed by filling them with non-alcohol items (e.g. marbles, sand, salt, pepper) for the purpose of decorations or display. Nothing herein shall prohibit a licensee from using emptied, cleaned alcohol beverage bottles with labels removed by filling them with non-alcoholic beverages (i.e. water, tea, juices) for patrons to consume on premises.
- 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 for alcohol beverages.
 - 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.
- 1 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 at; dor_led@state.co.us, or at the Division's office located at 1707 Cole Boulevard, Suite 300, Lakewood, Colorado, 80401, and copies of the material may be examined at any state publication depository library.

Regulation 47-922. Gambling.

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)(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 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 includes, but is not limited to, 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 at; dor_led@state.co.us, or, at the division's office located at 1707 Cole Boulevard, Suite 300, Lakewood, Colorado, 80401, and copies of the material may be examined at any state publication depository library.

Regulation 47-1016. Special Event Permittee - Purchase and Storage of Alcohol Beverages.

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)(K), and 44-5-109, C.R.S. The purpose of this regulation is to establish purchasing and storage requirements for a special event permit.

- 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.
 - 1. Any alcohol beverages purchased from a retailer licensed for off-premises consumption for 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.

- 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. This subparagraph (B)(5) does not apply to special event permittees that hold a valid club or arts license.
 - 6. A licensed wholesaler may deliver alcohol beverages purchased by a special event permittee to the storage location in accordance to subparagraphs (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 subparagraphs (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.

- C. If the special event permittee is also a retailer licensed for on-premises consumption that holds a valid club or arts license, and the designated event area is the retailer's licensed premises, then the special event permittee need not store the alcohol beverages purchased for the special event in a separate area of the on-premises retailer's licensed premises.
 - 1. At the conclusion of the special event, the on-premises retailer may sell alcohol beverages purchased for the special event to consumers by the drink pursuant to the on-premises retailer's licensed privileges and normal business operations.

2. This paragraph (C) only applies when the special event permittee is a qualified not-for-profit organization and is the same legal entity as the holder of the on-premises retailer's license.
3. This paragraph (C) only applies when the special event permittee purchases alcohol for a special event held for the benefit of the entity holding both the special event permit and the on-premises retailer's license.
4. This paragraph (C) does not apply to alcohol beverages donated to the special event permittee or purchased by the special event permittee below cost.

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 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, or 44-3-428, C.R.S., to sell alcohol beverages through delivery and takeout through July 1, 2025, the date section 44-3-911, C.R.S. is automatically repealed. Section 44-3-911, C.R.S., also temporarily allows a person issued a license under sections 44-4-104(1)(c)(I)(A) or 44-3-104(1)(c)(III), C.R.S., to sell alcohol beverages via takeout, and a person issued a license under sections 44-3-412, 44-3-415, 44-3-416, 44-3-419, 44-3-420, and 44-3-421, C.R.S., to sell alcohol beverages via delivery through July 1, 2025. Finally, section 44-3-911, C.R.S., also temporarily allows a person issued a license under sections 44-3-402 or 44-3-407, C.R.S., and that operates a sales room, to sell alcohol beverages through delivery until January 2, 2022. 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 paragraphs (B), (C), (D), and (E) of this Regulation 47-1101 apply to persons issued a license under sections 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 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 identified in paragraph (A) of this regulation may sell alcohol beverages through takeout and/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 identified in paragraph (A) of this regulation applies for a takeout and/or 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/or delivery sales once the disaster emergency is rescinded or expired. However, the licensee shall cease all takeout and/or 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/or 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 orders 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/or delivery permittee shall display its takeout and/or 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 identified in paragraph (A) of this regulation may engage in sales of alcohol beverages through takeout or delivery unless the licensee holds takeout and/or 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 section 44-3-911, C.R.S., and this regulation shall comply with the following requirements and limitations:
 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. 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 identification number 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 sixty (60) days. 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. For the purposes of this regulation "sealed container" means a "sealed container" as defined in subsection 44-3-103(51), C.R.S., and shall also include a container filled with alcohol beverage, that is new, has never been used, and has a tamper evident secure lid or cap designed to prevent consumption without removal of the lid or cap. "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 that is secured in such a manner that is visible apparent if the container has been opened or tampered with.
 - b. Persons issued a license identified in paragraph (A) of this regulation may not refill sealed containers as defined in subsection (D)(9)(a) or offer any such refilled containers for sale.
 - c. Any sealed container of alcohol beverages sold pursuant to this regulation shall not exceed the relevant volume limits identified in paragraph (E) of this regulation.
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 identify the licensee that sold the beverage and include 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.
12. Licensees shall only sell alcohol beverages through takeout and delivery between the hours of 7 a.m. and 12 midnight.
- E. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation shall sell more than the following amounts of alcohol beverage to a consumer as part of a takeout or delivery order:
 1. 1,500 milliliters, or approximately 50.8 fluid ounces, of vinous liquors; and

2. 144 fluid ounces, or approximately 4,259 milliliters, of malt liquor, fermented malt beverages, and hard cider, and
 3. One liter, or approximately 33.8 fluid ounces, of spirituous liquors.
- 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, 2025, 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.
- H. A person issued a license under sections 44-3-402 or 44-3-407, C.R.S., and that operates a sales room may sell alcohol beverage through delivery pursuant to section 44-3-911, C.R.S., and the requirements of this regulation. This paragraph (H) is repealed effective January 2, 2022.

Regulation 47-1103. Communal Outdoor Dining Areas.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103(11.5), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(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, 44-3-912(6), and 24-4-104(4)(a), C.R.S. The purpose of this regulation is to address requirements for the operation of communal outdoor dining areas.

- A. No licensee shall sell or serve alcohol beverages in a communal outdoor dining area unless
1. The licensee obtains a permit from the state licensing authority and pays the permitting fee established in regulation 47-506; and
 2. The state and local licensing authorities have approved both attaching the license to the communal outdoor dining area and a modification of licensed premises pursuant to Regulation 47-302 that includes the communal outdoor dining area.
 3. 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 outdoor dining area may submit a joint application to modify their licensed premises to include the communal outdoor dining area. Each licensee is responsible for paying the modification of the licensed premises fee set forth in Regulation 47-506.
- 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. 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 outdoor dining area;
 2. 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;
 3. 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; and
 4. All licensees have obtained and will maintain a properly endorsed general liability and liquor liability insurance policy that includes the communal outdoor dining area and is reasonable acceptable to the state and local licensing authorities.
- 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 outdoor dining area that was purchased outside of the communal outdoor 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 section 44-3-912, C.R.S., or 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.
- 1. If the licensee responsible for the violation cannot be identified, each attached licensee is deemed jointly responsible and subject to discipline for the violation.