

# STATE OF COLORADO

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department  
of Public Health  
and Environment

## RETAIL FOOD ESTABLISHMENT INTERPRETATION #13-05

DATE: July 12, 2013

SUBJECT: Special Events (Non Temporary)

**Note:** This retail food establishment interpretation supersedes retail food establishment Interpretation #10-04 (dated May 18, 2010)

Special events (non temporary) have evolved over the years from farmers' markets for small vegetable and fruit producers to marketplaces that encompass much more than uncut fruit and vegetables. These materials are designed to provide guidance to Local Public Health Agencies (LPHAs) and the regulated community so that vendors at special events (non temporary) are treated uniformly throughout the State.

Special event is defined in 25-4-1602(16) of the *Colorado Revised Statutes* as:

“an organized event or celebration at which retail food establishments prepare, serve, or otherwise provide food for human consumption.”

Special events (non temporary) include regularly scheduled series of events at venues such as sporting arenas, concert halls, flea markets, and farmers' markets. Special events (non temporary) **do not** include temporary events. Section 1-202(113) of the *Colorado Retail Food Establishment Rules & Regulations* defines temporary events as:

“a single community event or celebration that operates for a period of time of not more the fourteen (14) consecutive days and may include town celebrations, fairs, and festivals.”

Operations that prepare, repack, or assemble and sell foods directly to the public at a special event (non temporary) must hold a retail food establishment license and operate in compliance with all applicable sections of the current *Colorado Retail Food Establishment Rules and Regulations*. The type of retail food establishment license, and the license fee, is dependent upon: the type of food that is made and sold; if the food is to be sold packaged or unpackaged; and, if the food is intended to be consumed on or off the premises where it is sold. The attached three page flowchart is intended to assist you in determining the licensing requirements for vendors at special events (non temporary).

When products are prepared in advance at a different location, that location is also required to hold a retail food establishment license and/or wholesale food registration, depending on the type of product distribution (see Interpretive Memo #04-03).

Hot coffee, hot tea and instant hot beverages (including those with milk or creamer added) are allowed to be provided to the public without a retail food establishment license. Foods with an asterisk (\*) in the attached document may be sold directly to the consumer under the *Cottage Food Act* without a retail food establishment license. For information on the *Cottage Food Act* requirements go to [www.colorado.gov/cdphe/coretailfoodregulations](http://www.colorado.gov/cdphe/coretailfoodregulations).

Additional requirements may be imposed as necessary to protect against health hazards associated with the vendor's operation. The attached flowchart is intended to assist you in determining the licensing requirements for vendors at special events (non temporary).



Jeff Lawrence, Director  
Division of Environmental Health and Sustainability

- Attachment A – Key Definitions
- Attachment B – Raw Agricultural Commodities Flowchart
- Attachment C – Non Potentially Hazardous Foods Flowchart
- Attachment D – Potentially Hazardous Foods Flowchart

The following key definitions were taken from statute and regulation, in part, and clarified to assist in the application of these materials:

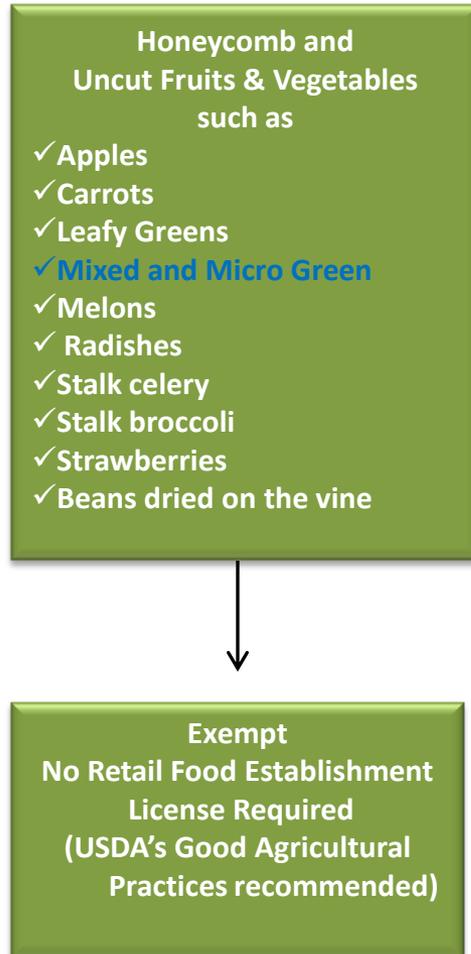
- ❖ Approved – means acceptable to the Department, based on determination of conformity with principles, practices, and generally recognized standards that protect public health.  
Specifically, the location that the food is produced, prepared, or processed meets or exceeds the standards of the responsible regulatory agency.
- ❖ Cut Leafy Greens – means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn, post harvest. The term “leafy greens” includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e. immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term “leafy greens” does not include herbs such as cilantro or parsley.  
Additionally, cut leafy greens are considered potentially hazardous and must be held below 41°F.
- ❖ Good Agricultural Practices (GAPs) – According to the USDA, GAPs are best agricultural practices to verify that fruits and vegetables are produced, packed, handled, and stored in the safest manner possible to minimize risks of microbial food safety hazards.  
More information on GAPs can be found at [www.usda.gov](http://www.usda.gov).
- ❖ Non Potentially Hazardous Foods - include foods in unopened hermetically sealed containers that are commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.
- ❖ Potentially Hazardous Foods - food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.  
“Potentially Hazardous Food” includes: a food of animal origin that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and Table A and B in Section 1-202(83)(2) of the Colorado Retail Food Establishment Rules & Regulations.
- ❖ Packaged - means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
- ❖ Value Added Foods – Value added products are raw agricultural products that have been modified or enhanced to have a higher market value and/or a longer shelf life. Some examples include fruits made into pies or jams, meats made into jerky, and tomatoes and peppers made into salsa. For more information go to [www.cofarntomarket.com](http://www.cofarntomarket.com).



# RETAIL FOOD: SPECIAL EVENT (NON TEMPORARY)

## Raw Agricultural Commodities

Colorado Department  
of Public Health  
and Environment



- Colorado Revised Statute 25-4-1602(14)(j) allows for the sale of whole and uncut fruits and vegetables (raw agricultural commodities) without a Colorado Retail Food Establishment (RFE) license, even if offering samples.
- **Mixed and Micro greens** refer to fresh greens subjected only to a single harvest cut, rinsing off dirt and debris, and trimming any dead leaves. The product is offered to the consumer in its raw form and is intended to be washed by the consumer prior to consumption.
- Colorado Retail Food Establishment license is required for the sale of cut melons, processed honey\*, cut leafy greens, roasted peppers and other value added agricultural products.

\*Denotes items that may be sold under Cottage Food Act



# RETAIL FOOD: SPECIAL EVENT (NON TEMPORARY)

## Non Potentially Hazardous Food

Colorado Department  
of Public Health  
and Environment

Non-Potentially Hazardous Food  
from an **approved source**<sup>1</sup>

Commercially  
Packaged

Un-packaged  
(Vendor Handles  
Product)

Examples:  
 ✓ Baked Goods\*  
 ✓ Candy\*  
 ✓ Cider  
 ✓ Tea\*  
 ✓ Dry Pasta  
 ✓ Jerky  
 ✓ Pickles  
 ✓ Salsa<sup>2</sup>  
 ✓ Sauces<sup>2</sup>  
 ✓ Dry Seasoning\*  
 ✓ Wine  
 ✓ Coffee

Intended for  
Offsite  
Consumption  
(with no assembly  
or preparation)

Examples:  
 ✓ Baked Goods  
 ✓ Candy  
 ✓ Tea  
 ✓ Dry Pasta  
 ✓ Dry Seasoning  
 ✓ Processed Grains  
or flour

Intended for Onsite  
Consumption (with  
assembly or  
preparation)

Examples:  
 ✓ Baked Goods  
 ✓ Candy  
 ✓ Cotton Candy  
 ✓ Dispensed Drinks  
 ✓ Funnel Cakes  
 ✓ Sno-Cones  
 ✓ Sugar Coated  
 ✓ Nuts  
 ✓ Candied Apples  
 ✓ Fresh Lemonade

No RFE License Required  
at Special Event  
(even if offering samples)

RFE License Fee \$115  
(liability code 3293)

RFE License Fee \$255  
(liability code 3291)

Un-Packaged Food

•Vendors serving foods requiring **no assembly or preparation** at the event must have:

- ✓ A hand washing station, equipped with hot & cold water under pressure, a catch basin that is connected to a closed waste water collection container, hand soap and dispensed hand towels.
- ✓ Food must be stored protected, off ground, covered, not accessible to contamination by the public as well as insects or rodents.
- ✓ Approved methods to prevent bare hand contact such as serving utensils, deli tissue, or disposable gloves.

•Vendors serving foods for **onsite consumption with assembly or preparation** at the event must:

- ✓ Operate from a fully equipped push cart/mobile unit that holds a RFE License.
- ✓ The commissary the push cart/mobile unit is based out of is not required to hold a RFE License unless retail food sales also take place at the commissary location.

<sup>1</sup> – See definition on page 3

<sup>2</sup> – Commercially packaged foods that are proven non-potentially hazardous through product analysis

\*Denotes items that may be sold under Cottage Food Act



# RETAIL FOOD: SPECIAL EVENT (NON TEMPORARY)

## Potentially Hazardous Foods

Colorado Department of Public Health and Environment

Potentially Hazardous Foods from an approved source

**Unpackaged Foods for Onsite Consumption**

Examples:

- ✓ BBQ
- ✓ Crepes
- ✓ Hot dogs
- ✓ Fry bread tacos
- ✓ Gyros
- ✓ Smothered fries

Assembly or preparation required.

**Pre-packaged Foods intended for Offsite consumption**

Examples:

- ✓ Cheese
- ✓ Raw meats
- ✓ Whole Cheesecake
- ✓ Hummus
- ✓ Salsa
- ✓ Whole Eggs\*

No assembly or preparation required  
\*\*except Chili Roasting operations

**Pre-packaged Foods intended for Onsite consumption**

Examples:

- ✓ Burritos
- ✓ Cut Melons
- ✓ Cut leafy greens/salad
- ✓ Tamales
- ✓ Yogurt

No assembly or preparation required.

RFE License Fee \$255 (liability code 3289)

RFE License Fee \$115 (liability code 3293)

RFE License Fee \$115 (liability code 3293)

### Unpackaged Potentially Hazardous Foods

- Vendors must operate in compliance with the Colorado Retail Food Establishment and/or be consistent with the Mobile Retail Food Establish requirements.

### Pre-packaged Potentially Hazardous Foods

- A RFE license is required where food is made/pre-packaged & additional licenses are required at each point of distribution.
- Vendors must have:
  - ✓ Easily cleanable equipment that can maintain potentially hazardous foods at <41°F or >135°F. No more than two hard plastic portable coolers are allowed provided they hold food at proper temperatures. Raw animal foods shall be segregated in a separate cooler from other potentially hazardous foods.
  - ✓ Thermometer to monitor holding equipment temperatures.
  - ✓ Products containing meat must have labeling in accordance with USDA and Colorado Department of Agriculture Requirements if applicable

#### \*\*Chili Roasting:

- Whole chilies are cooked in a large roaster, placed in to a bag and sold directly to customers. Vendors roasting chilies must have **at a minimum:**
    - ✓ A handwashing station, equipped with hot & cold water under pressure, a catch basin that is connected to a closed waste water container, hand soap and dispensed hand towels.
    - ✓ Chilies must be washed with drinking water prior to roasting and stored protected from contamination.
    - ✓ Approved methods to prevent bare hand contact on finished product.
- Note:** Additional requirements may exist if vendor cools, hot holds, peels or adds other ingredients to the roasted chilies.