

# 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  
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## RETAIL FOOD ESTABLISHMENT INTERPRETATION #10-04

**DATE:** May 18, 2010

**SUBJECT:** Farmers' Markets

**Note:** This retail food establishment interpretation supersedes Retail Food Establishment Interpretation #02-02 (dated April 26, 2002).

Farmers' markets have evolved over the years from venues for small vegetable and fruit producers to marketplaces that encompass much more than uncut fruit and vegetables. This letter is designed to provide guidance to local health departments so that vendors at farmers' markets are treated equitably throughout the State. The various food-related activities at farmers' markets can be divided into five categories, which are distinguishable by the products that are sold and/or the type of retail food establishment (RFE) license that is issued:

Category 1: Vendors who sell uncut fruit and vegetables.

If a vendor is selling only uncut fruit and vegetables, the vendor is exempt from retail food establishment licensure pursuant to 25-4-1602(14)(j), C.R.S. (1998), even if offering samples.

Category 2: Vendors who sell wrapped, non-potentially hazardous foods (phf) for off-premises consumption.

If a vendor is selling only wrapped, non-potentially hazardous foods for off-premises consumption, the vendor is exempt from obtaining a RFE license, even if offering samples. For example, wrapped loaf bread falls in this category.

Category 3: Vendors who sell unwrapped, non-potentially hazardous foods for off-premises consumption.

If a vendor is selling unwrapped non-potentially hazardous foods for off-premises consumption, the vendor must obtain a RFE license. For example, unwrapped loaf bread falls in this category.

Category 4: Vendors who sell wrapped, potentially hazardous foods for off-premises consumption.

If a vendor is selling wrapped, potentially hazardous foods for off-premises consumption, the vendor must obtain a RFE license. For example, cheese, shell eggs, frozen meats, and roasted chiles fall in this category.

Category 5: Vendors who sell potentially hazardous foods in individual portions for immediate consumption.

If a vendor is selling potentially hazardous foods in individual portions for immediate consumption, the vendor must obtain a RFE license.

IN ADDITION to the licensing issues noted in Categories 1-5 above, the following items should be checked when conducting an inspection at a farmers' market:

Categories 1-5, the following items apply:

- Food must be protected from contamination at all times,
- Vendors who prepare samples at the market must follow the minimum sanitation guidelines that were developed and distributed to vendors in 2001 ("Preparing and Offering Food Samples to Consumers"). These guidelines state that the person preparing the samples at the market site must have an available hand washing facility and must prepare the samples in a sanitary manner. Vendors who offer samples prepared at their commissary do not need a hand washing facility.

In addition for Categories 3, 4, and 5, the following items apply:

- Vendors must provide evidence of commissary use.
- Vendors must provide a Colorado sales tax account number in order to obtain a Retail Food Establishment license.
- Vendors in Category 4 may use an approved ice chest (e.g. Igloo or Coleman cooler) to transport and store shell eggs and prepackaged potentially hazardous foods, as long as the foods for sale are maintained at 41°F or less.

In addition for Category 5, the following items apply:

- Vendors are subject to plan review fees, and the review includes a menu submission.
- Vendors must provide a potable water system under pressure. The system must be of sufficient capacity to furnish adequate hot and cold water for food preparation, utensil cleaning, and sanitizing.
- All liquid waste must be stored in a retention tank that is at least 15 percent larger than the water supply tank.
- Liquid waste must be discharged from the retention tank to an approved sewage disposal system.

Vendors who handle, package, or prepare food for sale must have a conveniently located handwashing facility available for employee handwashing. This facility must be capable of providing an unassisted, continuous flow of warm water. The handwashing facility must be of adequate pressure and size to facilitate proper handwashing. Soap and individual paper towels must also be provided.

Vendors may be prohibited from selling some or all potentially hazardous foods for immediate consumption, unless they have a mobile unit or pushcart that is commercially designed and approved to handle food preparation and service. The equipment must be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program.

Vendors must use clean and sanitized knives, utensils, and cutting boards. These utensils and food-contact surfaces of equipment must be cleaned and sanitized every four hours, or whenever contamination occurs. Lastly, 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 farmers' markets.

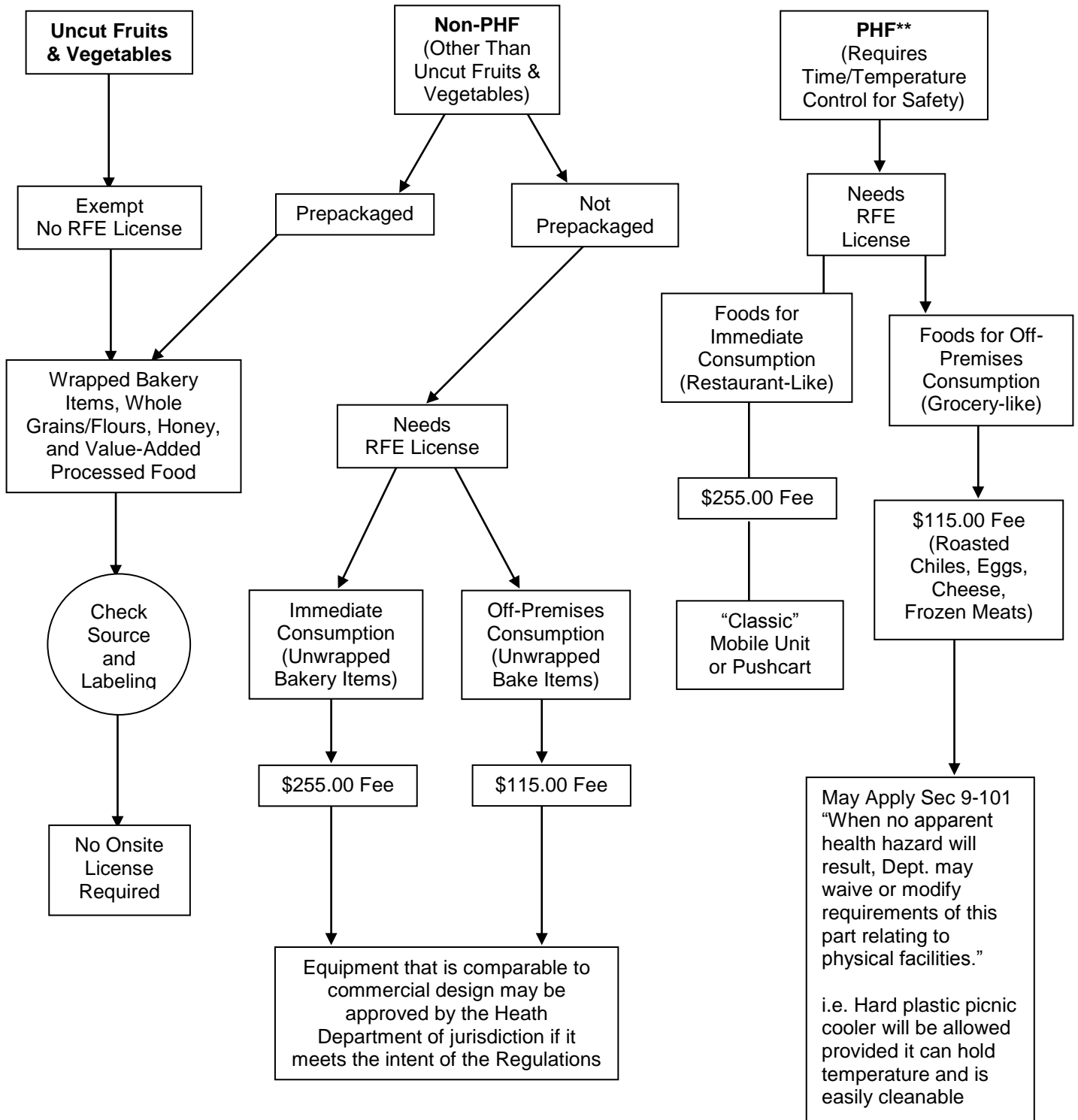


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Jeff Lawrence, Director  
Consumer Protection Division

Attachments

Vendors at Farmers' Markets\*



\*Samples Exempt

\*\*Potentially Hazardous Food