

Proposed New Regulation:

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

A. Definitions

1. **Alternating Proprietor Licensed Premises** shall mean that portion of the host winery's licensed premises that is shared by the host winery and alternating proprietors for winemaking activities, which is readily identified by use of placards showing the license number of the winery using that area. Such shared premises may include crush pads, wine processing tanks, bottling lines, barrel storage, and casking areas.
2. **Alternating proprietor** shall mean a "tenant winery", or a winery licensed pursuant to 12-47-402 or 12-47-403 who, by way of written agreement, takes possession of a host winery's licensed premises for use as an alternating proprietor licensed premises as defined by 12-47-103(2.5) and this regulation.
3. **Alternating Proprietor Agreement** shall mean a written agreement between a host winery and **an alternating proprietor** that, at minimum, conveys possession of **specific APLP's** within a host winery's licensed premises **to specific alternating proprietors**, establishes the general time frame for possession of APLP, and the manner in which **each** alternating proprietor will maintain control over its wine making operations as an independent producer. Such agreement must be approved by the Liquor Enforcement Division, and any changes, modifications, or termination of such agreement must be reported to the Liquor Enforcement Division within the time frame specified in subparagraph C of this regulation.
4. **Host winery** shall mean a winery licensed pursuant to 12-47-402 **or** 12-47-403 who, by way of written agreement, makes available a portion of its licensed premises to other wineries licensed pursuant those sections, for use as an alternating proprietor licensed premises as defined by 12-47-103(2.5).
5. **Dedicated premises** shall mean that portion of a winery's licensed premises that is not made available to other wineries for the use as an alternating proprietor licensed premises as defined by 12-47-103(2.5), and where the winery may exercise all of the privileges described in 12-47-402 or 12-47-403.5 including the storage of vinous liquor, the establishment of a retail sales area, and the allowance of consumer wine tasting.

B. Requirements of Alternating Proprietor Operations in Colorado Wineries

1. Only wineries licensed pursuant to 12-47-402 or 12-47-403 for the manufacture of vinous liquor are eligible to engage in alternation of licensed premises, as described in this regulation, either as a host winery or tenant winery.

2. Licensed wineries may not engage in the alternation of licensed premises until an application for alternation has been approved by the state licensing authority.
3. A host winery that elects to alternate its licensed premises may allow more than one tenant winery to take possession of APLP, pursuant to the requirements of this regulation, as long as there is no more than one tenant winery per APLP area at any given time.
4. All wineries licensed pursuant to 12-47-402 or 12-47-403 must maintain possession of their dedicated premises at all times pursuant to 12-47-301(3)(a). A host winery that elects to alternate its licensed premises must maintain dedicated licensed premises that are separate from alternating proprietors. Alternating proprietors must ensure that their manufactured product comes to rest upon their [dedicated](#) premises, where it is inventoried for tax purposes prior to sale or shipment pursuant to 12-47-402 or 12-47-403. Nothing herein shall prohibit any host winery or alternating proprietor from transporting its vinous liquor over [dedicated premises or APLP's](#).
5. At all times specified in the alternating proprietor agreement, a tenant winery must maintain possession, title, and control over raw materials and wine making processes occurring on its designated APLP. Nothing in the regulation authorizes joint venture operations, and the operations of each winery must be separate and distinct. Nothing herein shall prohibit a host winery or any alternating proprietor from utilizing the services of another winery's staff or employees, as long as each such arrangement is provided for in the alternating proprietor agreement.
6. Designated APLP within a host winery must be separated in a manner that adequately distinguishes each APLP each dedicated premises, by use of placards, partitions or other physical means.
7. The authorization to alternate any licensed premises may be suspended or denied by the state licensing authority due to violations of the host winery or alternating proprietors.

C. Application

1. When a host winery elects to alternate its licensed premises, by designating a portion of its licensed premises as alternating proprietorship licensed premises, it shall file notification with the state licensing authority, at least 10 days after alternation has commenced.
2. Notification shall be filed with the state licensing authority on forms prepared by the Liquor Enforcement Division; and, shall include all applicable fees, an alternating proprietor agreement, color-coded diagrams delineating those sections of the licensed

premises to be APLP and those sections to remain designated premises, and the manner in which vinous liquor ownership will be identified and segregated.

D. Record Keeping and Reporting Requirements

1. The host winery and the alternating proprietor shall maintain a record of the movement or transfer of raw materials or vinous liquor: when introduced to the APLP, when moved from crush pad to tank, when moved from tank to barrel, when moved from barrel to bottling, and when removed from the APLP.
 2. Any transfer of vinous liquor to or from the alternating proprietorship licensed premises shall be recorded in the business records of each winery.
 3. All wineries engaged in the activities described herein must maintain control over their separate business records at all times. Whether such records are maintained on the APLP or the dedicated premises, alternating proprietors must provide access to all records when requested by any enforcement officer, without authorization of the host winery or other proprietors.
 4. Before the 20th day of each month, on forms prepared by the state licensing authority, each alternating proprietor shall file a report of the preceding month's APLP operations. Such report shall be filed with the Monthly Report of Excise Tax, as required by Regulation 47-502.
- E. If a violation of this regulation occurs on an APLP and the licensee responsible for the violation can be identified, such licensee may be charged and the appropriate penalties shall apply. If the responsible party cannot be identified, the state licensing authority may send a written notice to every licensee identified or associated with the violation occurring on the APLP, and may administer the appropriate penalty prescribed in 12-47-601.