



NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 24, Article 50 and Title 8, Articles 1-4, 6, 12, 13.3, 13.5 and 14.4.

(1) Agricultural Labor Conditions Rules, 7 CCR 1103-15. This new set of rules executes the mandate in the Agricultural Labor Rights and Responsibilities Act of 2021, Colorado Senate Bill 21-87 (“ALRRA”), that the Division “shall promulgate” the following new sets of rules:

- (A) “Rules that **require agricultural employers to protect agricultural workers from heat-related stress illnesses and injuries** when the outside temperatures reach eighty degrees or higher, with discretion to adjust requirements based on environmental factors, exposure time, acclimatization, and metabolic demands of the job” — yielding these proposed rules providing agricultural employees: (i) drinking water — of a quantity and quality recommended by professional guidance; (ii) access to shade — usable during breaks, whether artificial or natural, to the maximum extent possible; (iii) during increased risk conditions such as especially high heat — breaks spaced no more than two hours apart, and safety communications to workers; (iv) safety procedures — for symptoms of heat stress to be spotted, responded to appropriately, and communicated to those who can provide or procure assistance; and (v) training — on these rules and on basic prevention, treatment, and symptoms of heat stress.
- (B) “Rules regarding additional times during which an employer may not interfere with **an agricultural worker's reasonable access to key service providers**, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours” — yielding these proposed rules providing agricultural employees: (1) communication access to key service providers by phone and internet; (2) additional break time for communication with such providers, unpaid in weeks over 40 hours but paid in in weeks over 60 hours; and (3) assurance that they receive mail or other communications sent to an employer for them.

(2) Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules (“Colorado WARNING Rules”), 7 CCR 1103-11. These rules amend the prior version of the Colorado WARNING Rules, the Division’s existing rules governing retaliation, interference, and notice of rights under several Division-enforced statutes, as follows (in addition to certain non-substantive edits):

- (A) defining key terms and provisions relevant to retaliation and interference protections that the ALRRA created, and requires the Division to execute and enforce;
- (B) implementing the ALRRA requirements for employers to provide agricultural employees notice of their rights under the ALLRA, as well as additional notice and training during a public health emergency;
- (D) amending the Division’s existing complaint and investigation procedures, and list of available remedies, to conform to complaints and investigations under the ALRRA;
- (E) where the Division has discretion as to whether to investigate a complaint (including but not limited to various non-wage-related ALRRA complaints), expanding from 30 to 90 days the Division’s time to decide whether to investigate, and clarifying when a complaint is deemed “received” for this deadline;
- (F) harmonizing and clarifying the scope and definition of “interference” and “retaliation” under the ALRRA and other existing statutes; and
- (G) adding definitions that previously were incorporated, by referencing federal law in the rules directly.

(3) State Labor Relations Rules, 7 CCR 1103-12. Rule 4.1.2 is amended to clarify the timeframe to file an unfair labor practice complaint with the Division as authorized in C.R.S. 8-3-110(16).

Public Hearing Information:

Date and Time of Hearing: **Thursday, December 9, 2021, from 3:00 pm until at least 6:00 pm.** Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline for Colorado WARNING Rules and State Labor Relations Rules:
Monday, December 13, 2021, at 5:00 pm

Written Comment Deadline for Agricultural Labor Conditions Rules:
Monday, December 20, 2021, at 5:00 pm

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the [rulemaking page](#) no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this [rulemaking comment form](#) to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our [rulemaking page](#).

Written comments may be submitted through our online [rulemaking comment form](#), mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. (*You do not need to have a Google account to access any of the below means.*)

- (A) **To Participate by Internet, Including Testifying:**
visit this "Meet" webpage: meet.google.com/qrt-vmrc-ezv
- (B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 636-707-2265, and then enter this pin: 325 388 238#
- (C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our [rulemaking comment form](#) to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit LeyesLaboralesDeColorado.gov; submit comments on our [Spanish comment form](#); RSVP (optionally) to attend or speak on our [Spanish RSVP form](#); or call 303-318-8441 and ask for an employee who speaks Spanish.

***Para recursos en español:** visite [Leyes Laborales Colorado.gov](https://LeyesLaboralesColorado.gov); envíe comentarios por nuestro [formulario en español para comentarios](#); Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro [formulario RSVP](#) en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at www.coloradolaborlaw.gov or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado, 80202.**