



Attention Labor & Employment Council Members

Please be advised that on Friday, October 29, 2021, the CDLE Division of Labor Standards and Statistics (DLSS) filed three sets of proposed rules. Below is a summary of each. For the full text of all proposed rules, visit the [DLSS Rulemaking page](https://cdle.colorado.gov/LaborRules) (at cdle.colorado.gov/LaborRules), which also has detailed information on the rulemaking process, including how and when to submit written comments, and/or to attend a public hearing on these rules.

(1) Agricultural Labor Conditions Rules, 7 CCR 1103-15. This new rule set executes the mandate in the Agricultural Labor Rights and Responsibilities Act of 2021, Colorado Senate Bill 21-87 (“ALRRA”), that DLSS “shall promulgate” the following new 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, DLSS’s existing rules governing retaliation, interference, and notice of rights under several DLSS-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 DLSS 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;
- (C) amending DLSS's existing complaint and investigation procedures, and list of available remedies, to conform to complaints and investigations under the ALRRA;
- (D) where DLSS 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 DLSS's time to decide whether to investigate, and clarifying when a complaint is deemed "received" for this deadline;
- (E) harmonizing and clarifying the scope and definition of "interference" and "retaliation" under the ALRRA and other existing statutes; and
- (F) 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 DLSS as authorized in C.R.S. 8-3-110(16).

Please contact Loren Furman at lfurman@cochamber.com with any questions/concerns regarding this matter.

Thank you!

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