



NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“Rules Pertaining to the Agricultural Workforce Development Program”

8 CCR 1207-3, Parts 3, 4, 5, 6 and 10.2

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: August 17, 2020
TIME: 11:00 am
LOCATION: This hearing will be held by telephone.
CALL INFORMATION: 1-617-675-4444 PIN: 897 597 048 3117#

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us
Pre-registration is not required to participate in the hearing.

The purpose of this rulemaking is to adjust the enrollment period to accommodate internships that follow the calendar rather than fiscal year, allow for the acceptance of applications on a rolling basis, and to allow for a longer period for participating businesses to submit invoices to the Department for reimbursement.

The statutory authority for these rules is § 35-1-104.5(2) C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

COLORADO DEPARTMENT OF AGRICULTURE

Agriculture Commissioners Office

RULES PERTAINING TO THE AGRICULTURAL WORKFORCE DEVELOPMENT PROGRAM

8 CCR 1207-3

Part 1. Definitions

Part 2. General Eligibility

Part 3. Internship Requirements

- 3.1. To be considered a qualifying internship and eligible for reimbursement, an internship must:
 - 3.1.1. Include an educational focus preparing interns for a career in one or more occupational areas including, but not limited to, agribusiness, animal husbandry, crop production, farm management, agronomy, natural resources, forestry, research and development, marketing and sales, food safety, and/or maintenance and repair of machinery and equipment.
 - 3.1.2. Provide for an educational experience of at least 130 hours and not exceed six (6) months in duration per intern.
 - 3.1.3. Pay the intern at a rate at least consistent with the State's prevailing minimum wage to be paid in accordance with the participating businesses normal payroll processes but paid at least monthly.
 - 3.1.4. Provide a supervisor for the intern.
 - 3.1.5. Provide worker's compensation insurance coverage for the intern.
- 3.2. To be eligible to participate in the Program, intern applicants must:
 - 3.2.1. Be a student; or
 - 3.2.2. Be a graduate from a secondary school, adult education, college, or certificate program within six (6) months post-graduation; or
 - 3.2.3. Be a beginning farmer, rancher or forester; and
 - ~~3.2.4. Be a resident of the state of Colorado; and~~
 - 3.2.45. Not be a current or past employee; and
 - 3.2.56. Not be a relative of the owner or operator of the participating business.

Part 4. Participating Business Requirements

- 4.1. To be eligible for reimbursement of intern costs, participating businesses must:
 - 4.1.1. Have business operations of an agricultural nature.

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- 4.1.2. Have a physical operation(s) in the state of Colorado which would be considered the place of work for the intern(s).
- 4.1.3. Adhere to all provisions of the Fair Labor Standards Act, Colorado Youth Employment Opportunity Act, and any other applicable labor and/or occupational safety laws and regulations, unless otherwise exempted. In such instances when both federal and state laws apply, the more stringent standard must be observed.
- 4.1.4. Be compliant with all federal, state and local laws.
- 4.1.5. Begin the internship within 30 days of the projected start date identified in the Business Application.

Part 5. Qualification of Participating Businesses and Interns

- 5.1. Approval by the Department of both the participating business and intern are required for qualifying internship(s) to be eligible for reimbursement.
 - 5.1.1. Businesses interested in participating may apply ~~only~~ during an open application period between October and December of the calendar year prior to the internship start date. If funds remain, the Department will consider business applications on a rolling basis after the close of the open application period as established by the Department.
 - 5.1.1.1. Award notifications will be provided via email within sixty (60) days of the close of the application period. Applications received outside of the open application period will be considered on a rolling basis, and notifications will be provided to applicants within one month of the end of the month following submission. For internships to be completed April 1 — June 30, 2019, the open application period shall be January 2, 2019 to February 15, 2019 with award notifications provided via email by March 15, 2019. Applications for internships beginning July 1, 2019 and for each fiscal year thereafter will be accepted from January to mid-February of the prior fiscal year with award notifications provided via email by mid-March.
 - 5.1.1.2. The Business Application will include general eligibility information about the type and size of business, availability of a mentor or supervisor, the location of the place of work for the internship, a description of the work to be performed by the intern, any educational and/or knowledge and skill requirements, the skills and/or competencies to be attained by the intern, estimated total cost of the internship, and projected start and end dates for the intern.
 - 5.1.1.3. Business applications will be reviewed at the close of the open application period, and on a rolling basis outside of the open application period, by a panel inclusive of Department staff and industry stakeholders approved by the Commissioner or designee. Decisions will be based on the needs of the Program, legislative intent, applicable statute, and these Rules.
 - 5.1.1.4. Businesses not selected for award who submitted an application during the open application period will receive notification via email within sixty (60) days of the close of the application period. Businesses not selected for award who submitted an application outside of the open application period will receive notification via email within one month of the end of the month following submission by the end of March following the open application period.

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5.1.1.5. One (1) Business Application is required for every internship position the applicant is requesting.

5.1.2. Upon approval of the Business Application, the candidate selected by the participating business for the internship must complete the Intern Application.

5.1.2.1. The Intern Application includes information to ensure the individual selected for the internship by the participating business meets eligibility requirements. Applications will also include a statement of career goal(s).

5.1.2.2. Intern applications will be reviewed by the Department and a determination of eligibility sent via email to the participating business within ten (10) business days of receipt of a fully completed Intern Application.

Part 6. Reimbursement

6.1. Participating businesses will be reimbursed up to the agreed upon amount at the conclusion of the internship upon presentation of an invoice, provided by the Department, and supporting documentation.

6.1.1. The invoice requesting reimbursement is to be submitted to the Department within thirty ~~(30)fifteen (15)~~ business days of concluding the internship.

6.1.2. The invoice will include information about the costs incurred by the business to employ the intern and the reimbursement amount requested.

6.1.3. Along with the invoice, the participating business shall include copies of time sheets and pay stubs verifying the total amount paid to the intern during the internship. If the invoice includes costs for incidental expenses, those costs must be supported with proof of payment by the participating business.

6.1.4. The participating business shall also, as a requirement of reimbursement, complete a post-internship evaluation.

6.1.5. In the event an internship ends prior to its scheduled completion, participating businesses may still be partially reimbursed for costs incurred.

Part 7 through 9 Reserved

Part 10. Statements of Basis, Specific Statutory Authority and Purpose

10.1. Adopted November 7, 2018 – Effective December 30, 2018

Statutory Authority

These Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture as provided for with passage of SB 18-042 and pursuant to § 35-1-104.5(2), C.R.S.

Purpose

1. To create an agricultural workforce development program providing incentives to agricultural businesses to hire interns.
2. To establish general eligibility requirements of the Program.

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3. To establish requirements qualifying an internship for reimbursement under the Program.
4. To establish requirements for agricultural businesses to be eligible to participate in the Program.
5. To establish application processes for agricultural businesses to seek approval to become a Program participant.
6. To establish application processes for internship candidates to determine eligibility to participate in the Program.
7. To establish processes for reimbursement of costs to the participating agricultural businesses to employ interns.

Factual and Policy Issues

Legislation was passed by the Colorado General Assembly in 2018 requiring the Commissioner of Agriculture to promulgate rules creating an agricultural workforce development program. In developing these proposed Rules, the Department reviewed policies and program guidelines relating to the Innovative Industries Internship Program administered by the Colorado Department of Labor and Employment. The Department also held two meetings to solicit input from stakeholders. More than a dozen organizations provided feedback and direction during these meetings.

10.2 Adopted September 9, 2020 – Effective October 30, 2020

Statutory Authority

These modifications to the Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture pursuant to § 35-1-104.5(2), C.R.S.

Purpose

1. To adjust the enrollment period to accommodate internships that follow the calendar rather than fiscal year, allow for the acceptance of applications on a rolling basis, and to allow for a longer period for participating businesses to submit invoices to the Department for reimbursement.

Factual and Policy Issues

Based on feedback from program participants, program administrators, and stakeholders, the following issues with the program were identified: 1) Colorado agricultural businesses located on state borders requested the ability to hire interns who are not Colorado residents; 2) a more flexible enrollment period would allow the Department to fund additional internships with funds remaining outside of the enrollment period, 3) agricultural businesses found compliance with the fifteen (15) day window for submitting reimbursement requests to be burdensome. The Department proposes these amendments in order to improve the program and remove each of these identified barriers.