



**COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF LABOR STANDARDS AND STATISTICS**

NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES:

- (1) COLORADO OVERTIME AND MINIMUM PAY STANDARDS (“COMPS”) ORDER #37, 7 CCR 1103-1;**
- (2) WAGE PROTECTION RULES, 7 CCR 1103-7;**
- (3) DIRECT INVESTIGATIONS RULES, 7 CCR 1103-8;**
- (4) COLORADO WHISTLEBLOWER, ANTI-RETALIATION, NON-INTERFERENCE, AND NOTICE-GIVING (“COLORADO WARNING”) RULES, 7 CCR 1103-11;**
- (5) COLORADO STATE LABOR RELATIONS RULES, 7 CCR 1103-12; and**
- (6) EQUAL PAY TRANSPARENCY RULES, 7 CCR 1103-13.**

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to the adoption of the above-listed rules, under the authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and the provisions of C.R.S. Title 24, Article 50, and Title 8, Articles 1, 2, 3, 4, 6, 12, 13.3, 14.4, including C.R.S. §§ 8-1-101, -103, -107, -108, -111, -116, -117, -130; 8-2-130; 8-3-105; 8-4-111; 8-5-203; 8-6-102, -104, -105, -106, -108, -109, -111, -116, -117; 8-12-115; 8-13.3-403, -407, -408, -409, -410; 8-14.4-103, -105, -108; 8-14.4-103, -105, and -108; and 24-50-1103, -1106(4).

Date and Time of Hearing: **Monday, November 2, 2020, at 9:00 am**

Written Comment Deadline: **5:00 p.m. on Thursday, November 5, 2020**

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, **all participation will be by remote means**, not in-person at the Division’s office. Interested persons may listen and/or testify either by phone or by computer or other internet-enabled device, as detailed below. **A recording of the hearing will be publicly posted after the hearing** on our [rulemaking page](#).

Comments may be submitted through our online [form](#), delivered by mail, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. **Written comments become part of the same record as oral testimony**, and are reviewed by the same officials. Accordingly, interested persons **may submit written comments in lieu of oral testimony**, but certainly are free to participate by both means.

While not required, we request and highly recommend that **anyone interested in submitting written comments or oral testimony use this [form](#)**, either to submit a written comment, to RSVP to testify orally, or both. At the hearing, the first oral testimony will be by those who RSVP’d to testify. After all those who RSVP’d have testified, we will entertain any further oral testimony from others.

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.

- (A) To Participate by Internet, Including Testifying:**
visit this “Meet” webpage: meet.google.com/zsy-dowb-suo
- (B) To Participate by Phone, Whether Just to Listen or to Testify:**

call (US) +1 601-861-4481, and then enter this pin: 779 255 774#

You do not need to have any Google or other account to access any of the above means. This hearing is being 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 (2020), to receive any testimony, written data, views, or arguments that interested parties may wish to submit regarding the proposed rules. There is no requirement to arrive by a particular time or stay the entire meeting.

Please contact us at michael.primo@state.co.us with any questions about how to access either the hearing or (after the hearing) its recording, or if you need accommodations or translation services to attend or participate.

Following is a summary of each set of proposed rules. Copies of the proposed sets of rules, including redlined copies showing all changes (except for new sets of rules), and a statement of basis and purpose further detailing each set of proposed rules, are available at www.coloradolaborlaw.gov or, by request at: **Colorado Division of Labor Standards and Statistics, 633 17th St., Denver, Colorado 80202.**

- (1) **Colorado Overtime and Minimum Pay Standards (“COMPS”) Order #37, 7 CCR 1103-1:** These amended rules are proposed to execute the annual inflation adjustment to minimum wages; to conform to amendments to legislative amendments to certain basic definitions (e.g., “wages,” “employee,” and “employer”) in the Healthy Families and Workplaces Act of 2020; to add a new sub-category to the professional exemption for creative employees; and to add other clarifying amendments to these rules.
- (2) **Wage Protection Rules, 7 CCR 1103-7:** These amended rules are proposed to implement and enforce the Healthy Families and Workplaces Act, C.R.S. § 8-13.3-401 et seq., defining statutory paid sick leave as wages under C.R.S. § 8-4-101(14)(a)(I) to be investigated, implemented, and enforced by the Division; and to add other clarifying amendments to these rules.
- (3) **Direct Investigation Rules, 7 CCR 1103-8:** These amended rules are proposed to conform to the broader scope of labor standards law that now provides a basis for Division investigations, determinations, and orders, and to respond to other recent developments; and to add other clarifying amendments to these rules.
- (4) **Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving (“Colorado WARNING”) Rules, 7 CCR 1103-11:** These new rules are proposed to implement and enforce multiple recent additions and changes to labor standards law in C.R.S. Title 8 (including but not limited to the Public Health Emergency Whistleblower Act, C.R.S. § 8-14.4-101 et seq., the Healthy Families and Workplaces Act, C.R.S. § 8-13.3-401 et seq., the Equal Pay for Equal Work Act, C.R.S. §§ 8-5-101 et seq., and the Chance to Compete Act, C.R.S. § 8-2-130), as to anti-retaliation and non-interference with protected activity (including but not limited to public health concerns and use of personal protective equipment), and as to requirements for workplace postings, job announcements, and other notices to employees.
- (5) **State Labor Relations Rules, 7 CCR 1103-12:** These new rules are proposed to implement and enforce the Colorado Partnership for Quality Jobs and Services Act, C.R.S. § 24-50-1101 et seq., governing certain labor-management relations in state employment.
- (6) **Equal Pay Transparency Rules, 7 CCR 1103-13:** These new rules are proposed to implement and enforce Part 2 of the Equal Pay for Equal Work Act, C.R.S. §§ 8-5-201 to -203, as to transparency in job postings and opportunities for promotion or advancement, and related record-keeping duties.



STATEMENT OF BASIS, PURPOSE, SPECIFIC STATUTORY AUTHORITY, AND FINDINGS

State Labor Relations (“SLR”) Rules, 7 CCR 1103-12 (2021), as proposed September 25, 2020; to be followed and replaced by a final Statement at the conclusion of the rulemaking process.

I. BASIS. The Director (“Director”) of the Division of Labor Standards and Statistics (“Division”) has authority to adopt rules and regulations under the authority listed in Part II, which is incorporated into Part I as well.

II. SPECIFIC STATUTORY AUTHORITY. These rules are issued under the authority of, and as implementation and enforcement of, Colorado Revised Statutes (“C.R.S.”) Title 24, Article 50 (2020) (the “Colorado Partnership for Quality Jobs and Services Act,” C.R.S. § 24-50-1101 et seq.), as well as the general labor law implementation and enforcement authority of C.R.S. Title 8, Articles 1 and 3 (2020), and are intended to be consistent with the rulemaking requirements of the Administrative Procedures Act, C.R.S. § 24-4-103. These rules are promulgated pursuant to express authority including but not limited to in C.R.S. §§ 24-50-1103, -1106(4), and C.R.S. § 8-3-105.

III. FINDINGS, JUSTIFICATIONS, AND REASONS FOR ADOPTION. Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds as follows: **(A)** demonstrated need exists for these rules, as detailed in the findings in Part IV, which are incorporated into this finding as well; **(B)** proper statutory authority exists for the rules, as detailed in the list of statutory authority in Part II, which is incorporated into this finding as well; **(C)** to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply; **(D)** the rules do not conflict with other provisions of law; and **(E)** any duplicating or overlapping has been minimized and is explained by the Division.

IV. SPECIFIC FINDINGS FOR ADOPTION. The Colorado Partnership for Quality Jobs and Services Act (C.R.S. § 24-50-1101 et seq.) requires the Division to promulgate rules and conduct rule-making hearings as may be necessary for implementation and enforcement of the Act and its provisions.

These Rules detail procedures, rights, and responsibilities for two key aspects of the Act. First, for the new unfair labor practice charges that the Act permits employees, labor organizations, or the state to file, these Rules detail how the Division will receive, investigate, issue determinations on, and hold appeals of, unfair labor practice charges. Second, these Rules offered similar details as to the new appeals of union coverage determinations by the Colorado Department of Personnel Administration that the Act permits covered employees to file.

These Rules do not cover union elections, for three reasons. First, while the Division needs to adopt election-related rules, under the Act, no such elections can occur until 2022, so the need is not imminent. Second, the ongoing public health emergency complicates many in-person activities, and while the Division is not anticipating the continuation of such complications into 2022, the Division believes it is difficult to adopt rules now setting procedures (*e.g.*, setting in-person voting procedures) that would be impermissible now. Third, as remote communication technology and individuals’ comfort level using it evolves, and has done so at an accelerated pace during the public health pandemic, it would be premature to decide now to what extent any election procedures might be viable to conduct remotely in 2022 or later.

V. EFFECTIVE DATE. These rules take effect on January 1, 2021, or as soon thereafter as the rule-making process is completed.

Scott Moss
Director
Division of Labor Standards and Statistics
Colorado Department of Labor and Employment

September 25, 2020

Date