



## **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 **three sets of proposed rules** outlined below, under authority granted to the Division of Labor Standards and Statistics by the State Administrative Procedure Act, C.R.S. § 24-4-103; provisions of C.R.S. Title 24, Article 92, 201, et. seq.; C.R.S. Title 8, Articles 1- 6, 12, 13.3, 13.5, 14.4 and 17; C.R.S. §§ 24-50-1103, -1106(4); and § 15 of Art. XVIII of the Colorado Constitution.

For the details of all proposed rules, see the text of each proposed draft rule set (published in redlined and non-redlined form), as well as the proposed statement of basis and purpose that accompanies each set of rules.

**(1) Wage Protection Rules, 7 CCR 1103-7.** Amending the rules as to the following matters: (1) to implement Senate Bill 23-231, which provides that if an employer does not pay after a Division citation for failure to pay wages, the Division may pay the employee from the Wage Theft Enforcement Fund, with the Division replacing the employee as the creditor of the employer for that debt; (2) to create and implement a mediation program as required by the Colorado Equal Pay for Equal Work Act amendments in Senate Bill 23-105; (3) for employers of employees with varied pay rates and leave amounts, to offer more flexibility in how to calculate pay rates for paid sick leave; (4) to incorporate, conform to, or otherwise apply laws enacted in recent legislative sessions; and (5) other technical and non-substantive procedural amendments, such as to add clarity and streamline redundancy, that have proven warranted since the Rules were last amended.

**(2) Direct Investigation Rules, 7 CCR 1103-8.** Amending the rules as to the following matters: (1) to update the rules to reflect that the Division's discretionary investigative authority will span other recently enacted labor laws, such as the pay disparity provisions of the Colorado Equal Pay for Equal Work Act, pursuant to Senate Bill 23-105; (2) to incorporate, conform to, and otherwise apply statutory and rule changes since the last amendments to these rules over three years ago (*e.g.*, such as Senate Bill 22-161, as well as changes to other Division rules); and (3) other technical and non-substantive procedural amendments, such as to add clarity and streamline redundancy, that have proven warranted since the rules were last amended.

**(3) State Labor Relations Rules 7 CCR 1103-12.** Amending the rules as to the following matters: (1) to increase conformity with the State Administrative Procedure Act as to appeals procedure; (2) to incorporate and ensure consistency with rule changes concurrently proposed in the Wage Protection Rules; and (3) other technical and non-substantive changes where Division review found a need for clarifications or corrections since the rules were last amended.

### **Public Hearing Information:**

Date and Time of Hearing: **Tuesday, January 30, 2024, starting at 2:00 pm.** Division will stay until everyone has an opportunity to speak. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline for the above rules: **Tuesday, February 6, 2024, 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. **Participation will be by remote means only.** A recording of the public hearing will be publicly posted afterward on our [rulemaking page](http://rulemaking.page) (direct URL: [cdle.colorado.gov/LaborRules](http://cdle.colorado.gov/LaborRules)).

Written comments may be submitted by: 1) our online [rulemaking comment form](http://rulemaking.comment.form) (also available at [cdle.colorado.gov/LaborRules](http://cdle.colorado.gov/LaborRules)); 2) mail to the below address; 3) fax to 303-318-8400; or 4) email to [CDLE\\_LaborStandardsRules@state.co.us](mailto:CDLE_LaborStandardsRules@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/ipu-ipra-rhi](https://meet.google.com/ipu-ipra-rhi)
  
- (B) **To Participate by Phone, Whether to Listen or to Testify:**  
call (US) +1 478-324-0861, and then enter this pin: 193 026 942#

Please contact [CDLE\\_LaborStandardsRules@state.co.us](mailto:CDLE_LaborStandardsRules@state.co.us) with any questions about how to access either the public hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This public hearing is held in accordance with the State Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and the Colorado Open Meetings Law, C.R.S. § 24-6-401 (2023), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

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](http://www.ColoradoLaborLaw.gov) or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado 80202.**

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

**State Labor Relations (“SLR”) Rules, 7 CCR 1103-12 (2024), as proposed December 29, 2023; 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 (2023), the “Colorado Partnership for Quality Jobs and Services Act,” as well as the general labor law implementation and enforcement authority of C.R.S. Title 8, Articles 1 and 3 (2023), and are intended to be consistent with the rulemaking requirements of the Administrative Procedure Act, C.R.S. § 24-4-103. These rules are promulgated pursuant to express authority, including but not limited to, 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.** Pursuant to C.R.S. § 24-4-103(6), the Director finds as follows.

**A. Rule 4. Unfair Labor Practices.**

The proposed amendment to Rule 4.2.8 ensures that appeals will be conducted in a manner consistent with the State Administrative Procedure Act, C.R.S. § 24-4-101 et seq.

An amendment to Rule 4.1.9 is also proposed to parallel a concurrent proposed amendment to the Wage Protection Rules, 7 CCR 1103-7. This Statement of Basis and Purpose incorporates the concurrent proposed Wage Protection Rules Statement of Basis and Purpose on this point.

**B. Rule 5: Appeals of Coverage Decisions by the State Personnel Director.**

The proposed amendment to Rule 5.7 ensures that appeals will be conducted in a manner consistent with the State Administrative Procedure Act, C.R.S. § 24-4-101 et seq. Based on a recent ruling by the Colorado Court of Appeals (*Colorado Workers for Innovative & New Solutions v. Gherardini*, Case No. 22CA1260, 2023 COA 80 (September 14, 2023)), the Division is amending these rules to ensure conformity with the State Administrative Procedure Act as to appeals of classifications decisions under the Colorado Partnership for Quality Jobs and Services Act, H.B. 20-1153.

**C. Other proposed amendments**

The proposed rules also include other technical or otherwise non-substantive changes where Division review found a need for clarifications or corrections.

**V. EFFECTIVE DATE.** If adopted, these rules take effect April 1, 2024, or as soon after as rulemaking completes.



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

December 29, 2023  
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Date