



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

2022 Publication And Yearly Calculation of Adjusted Labor Compensation (“2022 PAY CALC”) Order, 7 CCR 1103-14 (2022), as proposed September 29, 2021; 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 on wage-and-hour and workplace conditions, 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, and as enforcement, of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 2, 4, 6, and 12 of C.R.S. Title 8 (2022), and are intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.

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. This 2022 Publication And Yearly Calculation of Adjusted Labor Compensation Order (“PAY CALC Order,” or “PAY CALC”), 7 CCR 1103-14, a new set of rules with an effective date of January 1, 2022, serves to publish pay and income levels — most notably, the Colorado minimum wage and the minimum pay for various labor law exemptions — that adjust periodically under the Colorado Overtime and Minimum Pay Standards Order (“COMPS Order,” or “COMPS”), 7 CCR 1103-1, or other laws. PAY CALC incorporates COMPS and other relevant labor laws by reference.

Publishing pay and income levels in PAY CALC, rather than within COMPS, serves two key purposes. First, it alleviates the *annual* need to revise the COMPS Order, a wide-ranging set of labor rules of which pay and income levels are only a small part, in years when the sole purpose of a revision would be to update certain pay and income levels. Second, it improves accessibility of key information, such as the upcoming year’s minimum wage and exemption salaries, to publish it in PAY CALC, an annual issuance that **(A)** is short (unlike COMPS, a necessarily lengthy set of labor rules), and **(B)** has all relevant pay and income levels in a straightforward table on page one (unlike COMPS, which necessarily is organized by rule topic, leaving pay and income levels scattered throughout its various rules), which explains the nature of future increases, and refers the reader to the underlying rule text for additional detail on each published value.

PAY CALC and COMPS calculations are executed based on Section 15 of Colorado Constitution Article XVIII (“Colorado’s minimum wage is ... adjusted annually for cost of living increases, as measured by the Consumer Price Index (‘CPI’) used for Colorado”); C.R.S. Title 6, Article 8; and the COMPS Order. Inflation-adjusted values applicable to PAY CALC and COMPS are based on the CPI used for Colorado, the Denver-Aurora-Lakewood CPI published by the federal Bureau of Labor Statistics. Each year’s pay levels are published in that year’s Minimum Wage Order (through 2020), COMPS Order (in 2020 and 2021), and/or PAY CALC Order (as of 2022). Subsequent years’ minimum and exempt wage calculations will be published in each subsequent year’s annual PAY CALC Order. Prior years’ requirements are detailed in prior PAY CALC, COMPS, and/or Minimum Wage Orders in effect when the wages were owed.

To effectuate the mandate of Section 15 of Article XVIII of the Colorado Constitution, C.R.S. § 8-6-101(3)(a)(II), and COMPS Rule 3.1 that employees must be paid not less than the prior year’s minimum wage adjusted for inflation, Division rules must round up, to the nearest cent, any fractional cents yielded by that inflation adjustment. For 2022, an inflation adjustment to the 2022 minimum wage (\$12.32) of +1.9%, the mid-2020 to mid-2021 increase in the relevant CPI, yields \$12.55408. To guarantee that employees receive not less than \$12.55408 per hour, that figure must be rounded up, yielding the 2022 minimum wage of \$12.56 per hour. Other than in annually calculating the minimum wage, Division rules calculate pay levels by rounding fractional cents up for values of at least 0.5, and down for values under 0.5.

V. EFFECTIVE DATE. These rules take effect January 1, 2022, or as soon thereafter as rulemaking is completed.

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

September 29, 2021
Date