



STATEMENT OF BASIS, PURPOSE, SPECIFIC STATUTORY AUTHORITY, AND FINDINGS FOR ADOPTION AS TEMPORARY OR EMERGENCY RULES

Protections for Public Workers Act (“PROPWA”) Rules, 7 CCR 1103-17 (2024), as amended August 7, 2024.

I. Basis:

The Director (“Director”) of the Division of Labor Standards and Statistics (“Division”) has the authority to adopt rules and regulations under the authority listed in Part II, which is incorporated into Part I as well. These temporary or emergency rules update the Protections for Public Workers Act (PROPWA) Rules, 7 CCR 1103-17, which implement PROPWA as amended, including [Colorado Senate Bill 23-111](#) and [Colorado Senate Bill 24-232](#).

II. Specific Statutory Authority:

These temporary or emergency rules are issued under the authority and as implementation and enforcement of Colorado Revised Statutes (“C.R.S.”) Title 29, Article 33 (2024), the “Protections for Public Workers Act,” as well as the general labor law implementation and enforcement authority of C.R.S. Title 8, Articles 1 and 3 (2024), and are intended to be consistent with the rulemaking requirements of the State Administrative Procedure Act, § 24-4-103. These Rules are promulgated pursuant to express authority including, but not limited to, C.R.S. §§ 8-1-118 and 29-33-105.

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.

The Protections for Public Workers Act (“PROPWA,” or “the Act”), S.B. 23-111 (Ch. 393, Sec. 2349, § 29-33-101 et seq., 2023 Colo. Sess. Laws 2349-2354), was enacted June 6, 2023, and fully effective July 1, 2024. The Protections for Public Workers Act Rules (“PROPWA Rules”), 7 CCR 1103-17, were adopted on February 2, 2024, and effective July 1, 2024. On June 7, 2024, amendments to PROPWA were enacted in S.B. 24-232 (the “2024 PROPWA Amendments”), effective August 7, 2024.

The key provisions of the 2024 PROPWA Amendments added or changed several limitations in PROPWA for certain confidential, managerial, and non-partisan employees, and for disruptive activity. The 2024 PROPWA Amendments included provisions defining the scope of, and the terms relevant to, those limitations. The passage of the 2024 PROPWA Amendments required amending the PROPWA Rules to conform to the enacted statutory additions and changes.

The effective date of the PROPWA Amendments is too soon after enactment for amended PROPWA Rules to

be put in effect through the regular rulemaking process and schedule required by the Colorado Administrative Procedure Act (“APA”). Because rulemaking through the APA permanent rulemaking process and schedule that precludes amendments in time “would be contrary to the public interest,” these temporary or emergency rules are being adopted to be effective on the same effective date as the 2024 PROPWA Amendments, since “immediate adoption” of rule amendments to avoid conflict with the 2024 PROPWA Amendments “is imperatively necessary to comply with a state ... law” and “for the preservation of public health, safety, or welfare.” Permanent amendments to PROPWA are being proposed, in conformity with the regular APA rulemaking process and schedule, in time to take effect by the time the temporary or emergency rules expire.¹

The sole change to the PROPWA Rules in these temporary or emergency rules is the following new Rule 6:

Rule 6. Limitations on Coverage for Certain Confidential, Managerial, and Non-Partisan Employees, and for Disruptive Activity.

6.1 To the extent that any provisions of these rules are contrary to any provisions of Colorado Senate Bill 24-232, the latter shall govern.

V. Effective Date:

These rules are adopted as temporary or emergency rules on August 6, 2024, and effective on August 7, 2024.



Scott Moss
Director, Division of Labor Standards and Statistics
Colorado Department of Labor and Employment
Date: August 6, 2024

¹ C.R.S. § 24-4-103(6)(a) (“A temporary or emergency rule may be adopted without compliance with the [ordinary rulemaking] procedures ... and with less than the twenty days’ notice prescribed ... , or where circumstances imperatively require, without notice, only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest and makes such a finding on the record. Such findings and a statement of the reasons for the action shall be published with the rule. ... A temporary or emergency rule shall become effective on adoption or on such later date as is stated in the rule, shall be published promptly, and shall have effect for not more than one hundred twenty days”). See, e.g., *Elizondo v. Motor Vehicle Division*, 570 P.2d 518, 523 (Colo. 1977) (“temporary or emergency” rules were justified by agency need to help applicants obtain probationary driver’s licenses more promptly than regular rulemaking allowed); *Colorado Health Care Ass’n v. Dep’t of Social Services*, 598 F. Supp. 1400 (D. Colo. 1984), *aff’d*, 842 F.2d 1158 (10th Cir. 1988) (“temporary or emergency” rules were justified by “budgetary emergency,” even if the budget problem was known “long before,” and such rules did “not need to be supported by specific, objective data,” as long as “the reasoning process that leads to the rule’s adoption is defensible”).