**DEPARTMENT OF LABOR AND EMPLOYMENT**

**Division of Labor Standards and Statistics**

**COLORADO OVERTIME AND MINIMUM PAY STANDARDS ORDER (COMPS ORDER) #38**

**7 CCR 1103-1**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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Adopted November 10, 2021, effective January 1, 2022.

**Rule 1. Authority and Definitions.**

1.1 Authority and relation to prior orders. Colorado Overtime and Minimum Pay Standards Order ("COMPS Order") #38 replaces COMPS Order #37 (2021) and prior orders, except that the provisions of prior orders still govern as to events occurring while they were in effect. The COMPS Order is issued under the authority of, and as enforcement of, Colorado Revised Statutes ("C.R.S.") Title 8, Articles 1, 4, 6, 12, 13.3, and 13.5 (2022), and is intended to be consistent with the requirements of the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq. See Appendix A for citations. The effective date of COMPS Order # 38 is January 1, 2022.

1.2 Incorporation by reference. 29 C.F.R. Part 541 Subpart G; Colo. Const. art. XVIII, § 15 (2022); Title 8, Articles 1, 4, 6, and 13.3 of the Colorado Revised Statutes (2022); 7 CCR 1103-7 (2022); 7 CCR 1103-8 (2022); 7 CCR 1103-11 (2022); and 7 CCR 1103-14 (2022) are hereby incorporated by reference into this rule. Earlier versions of such laws and rules may apply to events that occurred in prior years. Such incorporation excludes later amendments to or editions of the constitution, statutes, and rules; all cited laws are incorporated in the forms that are in effect as of the effective date of this COMPS Order. 7 CCR 1103-14, the Publication And Yearly Calculation of Adjusted Labor Compensation Order ("PAY CALC Order"), states the periodically-adjusted dollar amounts of the minimum wages and minimum pay and income levels for exemptions required in the COMPS Order. All sources cited or incorporated by reference are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division of Labor Standards & Statistics at a reasonable charge. They can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of them at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing them. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern, so long as they are consistent with Colorado statutory and constitutional provisions.

1.3 "Director" means the Director of the Division of Labor Standards and Statistics.

1.4 "Division" means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.

1.5 "Employee," as used in the COMPS Order and the PAY CALC Order, has the following definitions.

(A) Under the Colorado Wage Act (CWA), as defined by C.R.S. § 8-4-101(5): "Employee" means any person, including a migratory laborer, performing labor or services for the benefit of an employer. For the purpose of the COMPS Order, relevant factors in determining whether a person is an employee include the degree of control the employer may or does exercise over the person and the degree to which the person performs work that is the primary work of the employer; except that an individual primarily free from control and direction in the performance of the service, both under his or her contract for the performance of service and in fact, and who is customarily engaged in an independent trade, occupation, profession, or business related to the service performed is not an "employee."

(B) Under the Healthy Families and Workplaces Act (HFWA), as defined by C.R.S. § 8-13.3-402(4): "Employee" has the meaning set forth in section 8-4-101(5) but does not include an "employee" as defined in 45 U.S.C. sec 351(d) who is subject to the federal "Railroad Unemployment Insurance Act", 45 U.S.C. sec. 351 et seq.

(C) Under the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-87, as defined by C.R.S. § 8-6-101.5(3): "agricultural employee" or "agricultural worker" has the "same meaning as under C.R.S. § 8-13.5-201(3)" ("A worker engaged in any service or activity included in section 203(f) of the federal 'Fair Labor Standards Act of 1938',...as amended...or section 3121(g) of the federal 'Internal Revenue Code of 1986', as amended").

1.6 "Employer," as used in the COMPS Order and the PAY CALC Order, has the following definitions.

(A) Under CWA, as defined by C.R.S. § 8-4-101(6): "Employer" has the same meaning as set forth in the federal "Fair Labor Standards Act," 29 U.S.C. sec 203 (d), and includes a foreign labor contractor and a migratory field labor contractor or crew leader; except that the provisions of the COMPS Order do not apply to the state or its agencies or entities, counties, cities and counties, municipal corporations, quasi-municipal corporations, school districts, and irrigation, reservoir, or drainage conservation companies or districts organized and existing under the laws of Colorado.

(B) Under HFWA, as defined by C.R.S. § 8-13.3-402(5): "Employer" has the meaning set forth in section 8-4-101(6); except that the term includes the state and its agencies or entities, counties, cities and counties, municipalities, school districts, and any political subdivisions of the state but does not include the federal government.

(C) Under the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-87, as defined by C.R.S. § 8-2-206(1)(c): "agricultural employer" has the "same meaning provided in C.R.S. § 8-3-104(1)" ("a person that is engaged in any service or activity included in section 203(f) of the federal 'Fair Labor Standards Act of 1938', … as amended," or engaged in "agricultural labor, as defined in section 3121 of the federal 'Internal Revenue Code of 1986'," that either (1) contracts with any person who recruits, solicits, hires, employs, furnishes, or transports agricultural employees, or (2) regularly engages the services of one or more agricultural employees).

1.7 "Minor," for purposes of wage provisions specific to minors, means a person under 18 years of age, but not one who has received a high school diploma or a passing score on the general educational development examination. "Emancipated minor" means any individual less than eighteen years of age who meets the definition provided by C.R.S. § 8-6-108.5.

1.8 "Regular rate of pay" means the hourly rate actually paid to employees for a standard, non-overtime workweek. Employers need not pay employees on an hourly basis. If pay is on a piece-rate, salary, commission, or other non-hourly basis, any overtime compensation is based on an hourly regular rate calculated from the employee's pay.

1.8.1 Pay included in regular rate. The regular rate includes all compensation paid to an employee, including set hourly rates, shift differentials, minimum wage tip credits, non-discretionary bonuses, production bonuses, and commissions used for calculating hourly overtime rates for non-exempt employees. Business expenses, bona fide gifts, discretionary bonuses, employer investment contributions, vacation pay, holiday pay, sick leave, jury duty, or other pay for non-work hours may be excluded from regular rates.

1.8.2 Regular rate for employees paid a weekly salary or other non-hourly basis.

(A) A weekly salary or other non-hourly pay may be paid as straight time pay for all work hours, and the regular rate each workweek will be the total paid divided by hours worked, if the parties have a clear mutual understanding that the salary is:

(1) compensation (apart from any overtime premium) for all hours each workweek;

(2) at least the applicable minimum wage for all hours in workweeks with the greatest hours;

(3) supplemented by extra pay for all overtime hours (in addition to the salary that covers the regular rate) of an extra ½ of the regular rate; and

(4) paid for whatever hours the employee works in a workweek.

(B) Where the requirements of (1)-(4) are not carried out, there is not the required "clear mutual understanding" that the non-hourly pay provides the regular rate for all hours with extra pay added for overtime hours. Absent such an understanding, the hourly regular rate is the applicable weekly pay divided by 40, the number of hours presumed to be in a workweek for an employee paid no overtime premium.

1.8.3 Regular rate for employees with multiple, hourly pay rates. The regular rate for an employee working two or more non-exempt jobs at different hourly pay rates for the same employer within a specific workweek shall be calculated as follows:

(A) Rate based on a weighted average: The employee's regular rate for the particular workweek is determined by adding together all the wages earned performing each job, then dividing that amount by the total number of hours worked in all jobs, consistent with the federal Fair Labor Standards Act (FLSA) and resulting in a weighted average rate of pay, or

(B) Rate based on the job actually performed during overtime hours: The employee's regular rate is the regular rate of hourly pay for the job being performed during the actual overtime hours.

If there is no written agreement between the employee and the employer as to the method of calculating the regular rate of pay in advance of performing the work, the employee's regular rate shall be calculated using the "weighted average" method described above in 1.8.3(A).

1.9 "Time worked" means time during which an employee is performing labor or services for the benefit of an employer, including all time s/he is suffered or permitted to work, whether or not required to do so.

1.9.1 Requiring or permitting employees to be on the employer's premises, on duty, or at a prescribed workplace (but not merely permitting an employee completely relieved from duty to arrive or remain on-premises) — including but not limited to, if such tasks take over one minute, putting on or removing required work clothes or gear (but not a uniform worn outside work as well), receiving or sharing work-related information, security or safety screening, remaining at the place of employment awaiting a decision on job assignment or when to begin work, performing clean-up or other duties "off the clock," clocking or checking in or out, or waiting for any of the preceding — shall be considered time worked that must be compensated.

1.9.2 “Travel time” means time spent on travel for the benefit of an employer, excluding normal home to work travel, and shall be considered time worked. At the start or end of the workday, travel to or from a work station, entirely within the employer's premises and/or with employer-provided transportation, shall not be considered time worked, except that such travel is compensable if it is:

(A) time worked under Rule 1.9 – 1.9.1;

(B) after compensable time starts or before compensable time ends under Rule 1.9 – 1.9.1; or

(C) travel in employer-mandated transportation (1) that materially prolongs commute time or (2) in which employees are subjected to heightened physical risk compared to an ordinary commute.

1.9.3 “Sleep time” means time an employee may sleep, which is compensable as follows. Where an employee's shift is 24 hours or longer, up to 8 hours of sleeping time may be excluded from overtime compensation, if:

(A) an express agreement excluding sleeping time exists;

(B) adequate sleeping facilities for an uninterrupted night's sleep are provided;

(C) at least 5 hours of sleep are possible during the scheduled sleep period; and

(D) interruptions to perform duties are considered time worked.

When an employee’s shift is less than 24 hours, periods when s/he is permitted to sleep are compensable work time, as long as s/he is on duty and must work when required. Only actual sleep time may be excluded, up to a maximum of 8 hours per workday. When work-related interruptions prevent 5 hours of sleep, the employee shall be compensated for the entire workday.

1.10 “Tipped employee” means any employee engaged in an occupation in which s/he customarily and regularly receives more than $30 per month in tips. Tips include amounts designated as a tip by credit card customers on their charge slips. Nothing in this rule prevents an employer from requiring employees to share or allocate such tips or gratuities on a pre-established basis among other employees who customarily and regularly receive tips. Employer-required sharing of tips with employees who do not customarily and regularly receive tips, such as management or food preparers, or deduction of credit card processing fees from tipped employees, shall nullify allowable tip credits towards the minimum wage.

1.11 “‘Wages’ or ‘compensation’” has the meaning provided by C.R.S. § 8-4-101(14) and includes paid sick leave under the Healthy Families and Workplaces Act, C.R.S. § 8-13.3-402(8)(b).

1.12 "Workday" means any consecutive 24-hour period starting with the same hour each day and the same hour as the beginning of the workweek. The workday is set by the employer and may accommodate flexible shift scheduling.

1.13 "Workweek" means any consecutive set period of 168 hours (7 days) starting with the same calendar day and hour each week.

**Rule 2. Coverage and Exemptions.**

2.1 Scope of coverage. The COMPS Order regulates wages, hours, working conditions, and procedures for all employers and employees for work performed within Colorado, with the exceptions and exemptions contained within Rule 2.

2.2 Exemption from all except Rules 1, 2, and 8. The following are exempt from the COMPS Order except Rules 1 (Authority and Definitions), 2 (Coverage and Exemptions), and 8 (Administration and Interpretation).

2.2.1 Administrative employees. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, who directly serves an executive, and regularly performs duties important to the decision-making process of that executive. The executive and employee must regularly exercise independent judgment and discretion in matters of significance, with a primary duty that is non-manual in nature and directly related to management policies or general business operations.

2.2.2 Executives or supervisors. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, who supervises the work of at least two full-time employees and has the authority to hire and fire, or to effectively recommend such action. The employee must spend a minimum of 50% of the workweek in duties directly related to supervision.

2.2.3 Professional employees. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, employed in a field of endeavor whose primary duty is work that requires (A) the consistent exercise of discretion and judgment, as distinguished from routine work that is mental, manual, mechanical or physical, and (B) either (1) knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, or (2) invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (as opposed to routine mental, manual, mechanical or physical work, or work that primarily depends on intelligence, diligence and accuracy). The professional employee must be employed in the field in which s/he was trained.

2.2.4 Outside salespersons. This exemption covers an employee working primarily away from the employer's place of business or enterprise for the purpose of making sales or obtaining orders or contracts for any commodities, articles, goods, real estate, wares, merchandise, or services. The employee must spend a minimum of 80% of the workweek in activities directly related to his or her own outside sales.

2.2.5 Owners or proprietors. This exemption covers a full-time employee actively engaged in management of the employer who either:

(A) owns at least a bona fide 20% equity interest in the employer; or

(B) for a non-profit employer, is the highest-ranked and highest-paid employee, and is paid at least the salary threshold in Rule 2.5 as specified for the applicable year in the PAY CALC Order.

2.2.6 Taxi cab drivers employed by a taxi service provider licensed by a state or local government.

2.2.7 In-residence workers. This exemption covers the below-listed in-residence employees.

(A) Casual babysitters employed in private residences directly by households, or directly by family members of the individual(s) receiving care from the babysitter.

(B) Property managers residing on-premises at the property they manage.

(C) Student residence workers working in premises where they reside for sororities, fraternities, college clubs, or dormitories.

(D) Laundry workers who (a) are inmates, patients, or residents of charitable institutions, and (b) perform laundry services, (c) in institutions where they reside.

(E) Field staff of seasonal camps or seasonal outdoor education programs who primarily provide supervision or education of minors, or education of adults; are required to reside on-premises or in the field; are provided adequate lodging and all meals free of charge and without deduction from wages; and as of January 1, 2021, are paid the amount required by subpart (1) below (with no minimum pay required before January 1, 2021).

(1) This exemption requires that field staff be paid either (a) the applicable Colorado minimum wage for all hours worked, or (b) a salary (i) equivalent to at least 42 hours per week at the Colorado minimum wage (with the 15% hourly wage reduction that Rule 3.3 permits for unemancipated minors), (ii) with hourly wage reduced one-sixth (⅙) for non-profit employers with annual total gross revenue of $25 million or less, and (iii) reduced $200 per week as a credit for facilities provided (lodging, meals, and other facilities), as specified for the applicable year in the PAY CALC Order.

(2) “Seasonal” in this Rule means a camp or program that either (a) does not operate for more than seven months in a year, or (b) during the preceding calendar year had average receipts for any six months of not more than one-third (⅓) of its average receipts for the other six months.

2.2.8 Bona fide volunteers and work-study students. This exemption covers those who need not be compensated under the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.) as either: (A) enrolled students receiving credit for an unpaid work-study program or internship; or (B) bona fide volunteers for non-profit organizations.

2.2.9 Elected officials and their staff. This exemption covers individuals elected to public office and members of their staff.

2.2.10 Employees in highly technical computer-related occupations. This exemption covers an employee paid a salary, or hourly compensation, in accord with Rule 2.5, and as specified for the applicable year in the PAY CALC Order, who:

(A) is a skilled worker employed as a computer systems analyst, computer programmer, software engineer, or other similarly highly technical computer employee;

(B) who has knowledge of an advanced type, customarily acquired by a prolonged course of specialized formal or informal study; and

(C) spends a minimum of 50% of the workweek in any combination of the following duties —

(1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications,

(2) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications, or

(3) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems.

2.2.11 Highly compensated employees. This exemption covers an employee who:

(A) is paid annual wages of at least —

(1) weekly, the weekly salary for the executive, professional, or administrative exemption, as specified for the applicable year in the PAY CALC Order, and

(2) annually, two and one-quarter times the rounded annual salary for the executive, professional, or administrative exemption, as specified for the applicable year in the PAY CALC Order;

(B) customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee (as described in Rules 2.2.1-2.2.3); and

(C) whose primary duty is office or non-manual work — for example, non-management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

2.2.12 National Western Stock Show. This exemption covers temporary employees employed directly by the Western Stock Show Association for the annual National Western Stock Show.

2.3 Agriculture.

2.3.1 Minimum Wages. All minimum wage laws and rules apply to all employees of all agricultural employers, except as otherwise provided for “range workers” in Rule 2.4.9.

2.3.2 Overtime and Maximum Hours Protections.

(A) Agricultural employees of agricultural employers are exempt from both the 40-hour weekly and the 12-hour daily overtime pay requirements in Rule 4.1.1, provided that such employees receive the following.

(1) Weekly overtime pay, at one and one-half times their regular rate of pay, after 60 hours worked per workweek from November 1, 2022, through December 31, 2023, and thereafter as follows, and as listed in the summary table below:

(a) at a highly seasonal agricultural employer (defined in Rule 2.3.2(C)), (i) after 56 hours worked per workweek during any up to 22-workweek period, or any two or three periods of at least four workweeks each totaling up to 22 weeks, that the employer designates as its peak labor period(s), and (ii) otherwise after 48 hours worked per week; and

(b) at an agricultural employer that is not highly seasonal, (i) after 54 hours worked per workweek in 2024, and (ii) after 48 hours worked per workweek as of January 1, 2025; except

(c) at a small agricultural employer (defined in Rule 2.3.2(B) below), whether or not highly seasonal, after 56 hours worked per workweek in 2024, then whichever of (a) or (b) applies as of January 1, 2025.

<table>
<tr><td colspan="4">Summary Table: Weekly Overtime Requirements for Agricultural Employers</td></tr>
<tr><td>Time Period</td><td>(a) Highly Seasonal Employers</td><td>(b) Non-Highly Seasonal Employers</td><td>(c) Small Employers (seasonal or not)</td></tr>
<tr><td>Until 11/1/22</td><td></td><td>[ No requirements ]</td><td></td></tr>
<tr><td>11/1/22-12/31/23</td><td colspan="3">60 hours</td></tr>
<tr><td>2024</td><td rowspan="2">56 hours for up to 22 peak weeks;<br>48 hours otherwise</td><td>54 hours</td><td>56 hours</td></tr>
<tr><td>2025 -</td><td>48 hours</td><td>[No separate rule for small employers; apply (a) or (b)]</td></tr>
</table>

(2) Beginning November 1, 2022:

(a) in lieu of 12-hour daily overtime pay under Rule 4.1.1, 30 minutes for the third Rule 5.2 paid rest period (rather than 10 minutes or any other duration under 30 minutes otherwise applicable to that rest period) — except that if the employer had no reason to believe an employee would exceed 12 hours until the twelfth hour worked, then the additional break time may be provided on the employee's next workday; and

(b) for a workday with more than 15 hours of work, or for more than 15 consecutive hours of work (as provided by Rule 4.1.5) without regard to the start and end time of the workday, an additional lump-sum payment equal to one hour of the Colorado minimum wage, as specified for the applicable year in the PAY CALC Order.

(B) "Small agricultural employer" means an agricultural employer that:

(1) employed fewer than four employees on average over the three prior calendar years (or as many complete prior calendar years as they have been in operation); and

(2) had average adjusted gross income, over the three prior complete taxable years preceding 2024 (the year that small agricultural employers have a different overtime standard), of no more than $1,000,000. Employers in operation fewer than three complete taxable years shall use as many complete taxable years as they have been in operation; employers not yet in operation for any complete taxable years shall be considered below the threshold.

(C) "Highly seasonal agricultural employer" means an agricultural employer that, in any up to 22-workweek period (or any two or three periods , of at least four workweeks each, totaling up to 22 weeks) in the prior calendar year, had at least twice as many employees as the rest of the year, and provides the following to those it would pay weekly overtime after 56 rather than 48 hours in peak weeks.

(1) An initial disclosure, at least annually,

(a) that weekly overtime pay will be after 56 rather than 48 hours for up to 22 peak weeks,

(b) whether those peak weeks will be divided into one, two, or three periods (of four weeks or more), and

(c) a good-faith estimate of the months in which the peak weeks will occur.

The initial disclosure must be provided to employees at least 30 days in advance of the first expected peak week (or upon hiring for those start work fewer than 30 days in advance), except for those employed under, and in compliance with federal requirements for, temporary work visas, no later than the date of the worker's visa application, contemporaneous with required federal pre-employment written disclosures to visa workers ordinarily due by the date of the worker's visa application.

(2) Written notice, at least annually, of which weeks will be the peak weeks, no later than the seventh day before the first peak week (or upon hiring for those starting work after the seventh day). The employer may change which are the peak weeks after that notice if:

(a) it provides at least one week's written notice of any week being added or removed as a peak week;

(b) the initial disclosure was the employer's good-faith, reasonable expectation of which weeks would be the peak weeks; and

(c) the changes are based on circumstances not foreseeable at the time of the initial disclosure (for example, a late frost).

(3) All required notices and disclosures related to peak weeks in English and any language that is the first language spoken by at least five percent of the employer's workforce at any point during the year.

(D) An agricultural employee is exempt from all overtime pay requirements in the COMPS Order if (by blood, adoption, or marriage) they are the child, sibling, spouse, parent, aunt, uncle, nephew, niece, first cousin, grandchild, or grandparent of a family owner of an employer. For this exemption, a "family owner" is an individual with an ownership interest in an agricultural employer that is either (a) a majority interest or (b) an at least 10% interest that combines with those of other family members of that owner (of any type of relative listed in the prior sentence) to form a majority interest. If a family owner is also an "employee" of the agricultural employer, they also are exempt from all overtime pay requirements in the COMPS Order.

(E) How many employees an agricultural employer has, for purposes of the above definitions of "small agricultural employer" in (B), and "highly seasonal agricultural employer" in (C), shall be determined as follows.

(1) Employees shall be counted at the worksite for which the definition is being assessed, and shall count proportionally as follows, based on their average hours worked in all weeks in the preceding year with at least one hour worked:

(a) 35 hours per week or more, 1.0;

(b) between 15 and 35 hours per week, 0.5; and

(c) under 15 hours per week, 0.

(2) Employers need not rely on prior staffing levels to qualify for the "small agricultural" or "highly seasonal" employee thresholds if they (a) have been in operation for less than one calendar year, or (b) did not qualify based on their prior staffing levels, but have a good-faith, objectively reasonable belief that they will qualify for the present year. If their belief that they will qualify for the threshold proves incorrect, they must pay affected employees back pay for any additional overtime owed, plus 5%, by 30 days from the date the employer has notice that it will not qualify for the threshold for the year, or (if they lacked notice until the end of the year) by 30 days from the end of that calendar year.

(F) The Rule 2.3.2 exemption does not apply if an employer draws at least 50% of its annual dollar volume of business from sales to the consuming public (rather than for resale) of any services, commodities, articles, goods, wares, or merchandise; prior Orders for decades have covered any such employer, in any industry. E.g., Order #35, Rule 2(A) (covering any employer "that sells or offers for sale, any service, commodity, article, good, … wares, or merchandise to the consuming public" and draws "50% or more of its annual dollar volume … from such sales," rather than from sales to other businesses "for resale").

2.3.3 Meal and Rest Periods.

(A) In addition to the meal and rest periods required by Rule 5, an agricultural employer shall provide agricultural employees engaged in hand-weeding and hand-thinning an additional, five-minute rest period, which, insofar as is practicable, must be in the middle of each work period.

(B) The requirement of meal and rest periods in Rule 2.3.3 and Rule 5 does not apply to a truck driver whose sole and principal duty is to haul livestock or to a combine or harvester operator while harvesting.

2.4 Exemptions from Overtime Requirements of the COMPS Order. The following employees are exempt from Rule 4 (Overtime) unless otherwise specified.

2.4.1 Certain Salespersons and Mechanics. Salespersons, parts-persons, and mechanics employed by automobile, truck, or farm implement (retail) dealers; and salespersons employed by trailer, aircraft, and boat (retail) dealers are exempt from Rule 4 (Overtime).

2.4.2 Commission Sales. Sales employees of retail or service industries paid on a commission basis, provided that at least 50% of their total earnings in the pay period is derived from commission sales, and their regular rate of pay is at least one and one-half times the minimum wage, are exempt from Rule 4 (Overtime). This exemption is applicable for only employees of retail or service employers who receive over 75% of their annual dollar volume from retail or service sales.

2.4.3 Ski Industry. Employees of the ski industry performing duties directly related to ski area operations for downhill skiing or snowboarding, and those employees engaged in providing food and beverage services at on-mountain locations, are exempt from (within Rule 4) the 40-hour overtime requirement but not the requirement of overtime pay for over 12 hours that are consecutive or are within a workday. This partial overtime exemption does not apply to ski area employees performing duties related to lodging.

2.4.4 Medical Transportation. Employees of the medical transportation industry who work 24-hour shifts are exempt from the Rule 4.1.1(B)-(C) daily (12-hour) overtime rules if they receive the required Rule 4.1.1(A) weekly (40-hour) overtime pay.

2.4.5 Eight and Eighty Rule. A hospital or nursing home may seek an agreement with individual employees to pay overtime pursuant to the provisions of the federal Fair Labor Standards Act "8 and 80 rule" whereby employees are paid time and one-half their regular rate of pay for any work performed in excess of 80 hours in a 14 consecutive day period and for any work in excess of 8 hours per day.

2.4.6 Drivers, and Driver's Helpers, Subject to the Federal Motor Carrier Act ("MCA"). Drivers and their driver's helpers are exempt from Rule 4 (overtime) and Rule 5 (rest and meal periods) while and to the extent that they are:

(A) subject to the federal MCA and exempt from overtime requirements of the FLSA pursuant to 29 U.S.C. § 213(b)(1) and regulations promulgated thereunder;

(B) working on MCA-covered non-passenger vehicles, or on MCA-covered passenger vehicles qualifying as commercial motor vehicles requiring a commercial driver's license ("CDL") -- but not on vehicles that transport workers to and from manual work jobs (*e.g.*, landscaping or lawn care, construction or roofing, cleaning or janitorial, or other manual labor) and do not require a CDL; and

(C) paid compensation equivalent to at least 50 hours at the Colorado minimum wage with overtime, as specified for the applicable year in the PAY CALC Order, regardless of whether the pay is hourly, salaried, piece rate, or on another basis.

2.4.7 Direct Support and Care. The Rule 4.1.1(B)-(C) daily (12-hour) overtime rule does not apply to companions designated as direct support professionals/direct care workers who are scheduled for, and work, shifts of at least 24 hours providing residential or respite services and who are employed by service providers and agencies that receive at least 75% of their total revenue from Medicaid or other governmental sources, and who provide services within Medicaid home- and community-based service waivers.

2.4.8 Decision-Making Managers at Livestock Employers. The Rule 2.3.2 and Rule 4 overtime rules do not apply to decision-making managers at livestock employers, defined as follows.

(A) A "decision-making manager" (for purposes of this exemption) is an employee primarily engaged in livestock work:

(1) who is paid at least the applicable salary in Rule 2.5, as specified for the applicable year in the PAY CALC Order;

(2) who is not employed in the position on a seasonal or temporary basis (i.e., not expected to remain in the position for less than 12 months); and

(3) whose primary duties require routine exercise of independent judgment and discretion in matters of significance, and who either

(a) supervises two or more full-time employees, or

(b) reports directly to an owner (majority or minority), or to an executive-level employee who reports directly to such an owner, who routinely exercises independent judgment and discretion in matters of significance, whether in manual or non-manual labor (e.g., the owner's second-in-command, or the head of the site where the exempt employee works).

(B) A "livestock employer" (for purposes of this exemption) is an agricultural employer with significant responsibilities for "livestock" (as defined under the FLSA) care and health — a dairy, cattle ranch, feedlot, or similar employer — that does not qualify as a "highly seasonal" employer under Rule 2.3.2.

2.4.9 Range workers. The Rule 2.3.2 and Rule 4 overtime rules do not apply to range workers who are paid at least the minimum range worker salary (as specified in the PAY CALC Order for the applicable year) during periods when they are "principally engaged in the range production of livestock … on the open range" (as defined by C.R.S. 8-6-101.5(b)), and are provided without cost or deduction any housing, food, transport, and equipment required for H-2A visa range workers by federal regulations.

2.5 Salary Thresholds for Certain Exemptions.

2.5.1 For COMPS exemptions requiring a salary, the "Salary Requirement" rules of the federal Fair Labor Standards Act in 29 C.F.R. Part 541 Subpart G, apply, except that under the COMPS Order, the salary must be at least the level specified for the applicable year in the PAY CALC Order and sufficient for the minimum wage for all hours in a workweek (with the exception of certain professionals listed in Rule 2.5.2). Except as provided in Rule 2.2.11, the weekly salary from July 1, 2020, through December 31, 2020, shall be $684 ($35,568 per year); $778.85 for 2021 ($40,500 per year); $865.38 for 2022 ($45,000 per year); $961.54 for 2023 ($50,000 per year); $1,057.69 for 2024 ($55,000 per year); and after 2024 shall be indexed every January 1 by the same Consumer Price Index ("CPI") as the Colorado minimum wage, as stated in the PAY CALC Order; except that the 2020 salary did not apply to the following two categories of employers, for whom the above salary schedule applied only as of January 1, 2021 — (A) non-profit employers with annual total gross revenue of under $50 million, and (B) for-profit employers with annual total gross revenue of under $1 million. Annual equivalents are based on 2080 hours over 52 weeks of 40 hours, as under the federal Fair Labor Standards Act, and are rounded to the nearest dollar.

For any employer that was not subject to the $684 per week salary under this Rule 2.5.1 for all or part of 2020, the required salary was the equivalent of the Colorado $12.00 minimum wage, less any applicable lawful credits, for all hours worked in a workweek; this salary requirement of minimum wage for all hours work applied under Minimum Wage Order #35 (2019) and prior Minimum Wage Orders.

2.5.2 Exemption for Certain Professionals Exempt from the Salary Requirement under Federal Wage Law. The Rule 2.5.1 salaries do not apply to the following professionals who are exempt from the requirement of a salary under federal wage law.

(A) Doctors, lawyers, and teachers who qualify as exempt Rule 2.2.3 professional employees need not receive any particular salary or hourly pay to be exempt.

(B) Employees in highly technical computer-related occupations, as defined by Rule 2.2.10, must receive at least the lesser of (1) the applicable salary in Rule 2.5.1, or (2) hourly pay that is at least $28.38 in 2021, adjusted annually by CPI thereafter, as specified for the applicable year in the PAY CALC Order.

**Rule 3. Minimum Wages.**

3.1 Statewide Minimum Wage. Under the minimum wage requirements of Article XVIII, Section 15, of the Colorado Constitution, all employees (with the exception detailed in Rule 3.3), whether employed on an hourly, piecework, commission, time, task, or other basis, shall be paid not less than the Colorado minimum wage, as specified for the applicable year in the PAY CALC Order, less any applicable lawful credits or exceptions noted, for all hours worked, if the employee is covered by *either*:

(A) Rule 2 (Coverage and Exemptions) of the COMPS Order; *or*

(B) the minimum wage provisions of the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.).

3.2 Minimum and Overtime Wage Requirements of Other Applicable Jurisdictions. In addition to state wage requirements, federal or local laws or regulations may apply minimum, overtime, or other wage requirements to some or all Colorado employers and employees. If an employee is covered by multiple minimum or overtime wage requirements, the requirement providing a higher wage, or otherwise setting a higher standard, shall apply. The Division accepts state law complaints by employees who claim entitlement to a state, federal, or local minimum or overtime wages under the C.R.S. § 8-4-101(14) definition that the "unpaid wages" recoverable in a state-law claim include "[a]ll amounts for labor or service performed by employees," as long as such amounts are "earned, vested, and determinable, at which time such amount shall be payable to the employee pursuant to this article."

3.3 Reduced Minimum for Minors. The minimum wage may be reduced by 15% for non-emancipated minors, as specified for the applicable year in the PAY CALC Order.

**Rule 4. Overtime.**

4.1 Overtime Wages.

4.1.1 Employees shall be paid time and one-half of the regular rate of pay for any work in excess of any of the following, except as provided in exemptions or variances in Rule 2:

(A) 40 hours per workweek;

(B) 12 hours per workday; or

(C) 12 consecutive hours without regard to the start and end time of the workday.

4.1.2 Whichever of the three calculations in Rule 4.1.1 results in the greater payment of wages shall apply in any particular situation.

4.1.3 Hours worked in two or more workweeks shall not be averaged for computing overtime.

4.1.4 Performance of work in two or more positions, at different pay rates, for the same employer, shall be computed at the overtime rate based on the regular rate of pay as described in Rule 1.8.3.

4.1.5 In calculating when 12 consecutive hours are worked for purposes of the Rule 4.1.1 requirement of overtime after 12 hours, meal periods may be subtracted, but only if the meal periods comply with the Rule 5.1 requirements for meal periods.

4.2 Effect of Daily Overtime on Workday and Workweek. The requirement to pay overtime for work in excess of 12 consecutive hours will not alter the employee's established workday or workweek, as previously defined.

4.3 Overtime for Minors. Nothing in Rule 4 modifies the provisions on work hours for minors contained in C.R.S. § 8-12-105.

**Rule 5. Meal and Rest Periods.**

5.1 Meal Periods. Employees shall be entitled to an uninterrupted and duty-free meal period of at least a 30-minute duration when the shift exceeds 5 consecutive hours. Such meal periods, to the extent practical, shall be at least one hour after the start, and one hour before the end, of the shift. Employees must be completely relieved of all duties and permitted to pursue personal activities for a period to qualify as non-work, uncompensated time. When the nature of the business activity or other circumstances make an uninterrupted meal period impractical, the employee shall be permitted to consume an on-duty meal while performing duties. Employees shall be permitted to fully consume a meal of choice on the job and be fully compensated for the on-duty meal period without any loss of time or compensation.

5.2 Rest Periods. Every employer shall authorize and permit a compensated 10-minute rest period for each 4 hours of work, or major fractions thereof, for all employees, as follows, except as provided in exemptions or variances in Rule 2:

| Work Hours | Rest Periods Required |
|---|---|
| 2 or fewer | 0 |
| Over 2, and up to 6 | 1 |
| Over 6, and up to 10 | 2 |
| Over 10, and up to 14 | 3 |
| Over 14, and up to 18 | 4 |
| Over 18, and up to 22 | 5 |
| Over 22 | 6 |

5.2.1 Rest periods shall be 10 minutes unless,

(A) on a given workday, or in a writing covering up to a one-year period that is signed by both parties, the employee and the employer agree, voluntarily and without coercion, to have two 5-minute breaks, as long as 5 minutes is sufficient, in the work setting, to allow the employee to go back and forth to a bathroom or other location where a bona fide break would be taken; or

(B) if the below conditions are met, rest periods need not be 10 minutes every 4 hours for any employees (i) governed by a collective bargaining agreement at any employer, or (ii) during time they are providing Medicaid-funded services for a service provider or agency receiving at least 75% of its annual total gross revenue from Medicaid or other governmental funds for providing such services within Medicaid home- and community-based services waivers, and the services provided require continuous supervision of the service recipient, or providing a rest period would interfere with ensuring the service recipient's health, safety, and welfare. Employees in category (i) or (ii) must receive:

(1) rest periods that average, over the workday, at least 10 minutes per 4 hours worked; and

(2) at least 5 minutes of rest in every 4 hours worked.

Such an agreement does not change an employee's right to pay for rest periods under Rule 5.2.4. Additionally, when (B)(ii) above applies: When direct support professionals or direct care workers serving individuals with disabilities spend time in community outings with those individuals with disabilities – as part of day programs, supported living services, or one-to-one respite or personal care – time in such outings does not require rest breaks or pay for rest breaks.

5.2.2 Rest periods, to the extent practical, shall be in the middle of each 4-hour work period. It is not necessary that the employee leave the premises for a rest period.

5.2.3 Required rest periods are time worked for the purposes of calculating minimum wage and overtime obligations.

5.2.4 When an employee is not authorized and permitted a required 10-minute rest period, his or her shift is effectively extended by 10 minutes without compensation. Because a rest period requires 10 minutes of pay without work being performed, work during a rest period is additional work for which additional pay is not provided. Therefore, a failure by an employer to authorize and permit a 10-minute compensated rest period is a failure to pay 10 minutes of wages at the employee's agreed-upon or legally required (whichever is higher) rate of pay. This Rule 5.2.4 applies equally to any required rest period time not provided (e.g., rest periods that are incomplete, or for non-hourly-paid employees, or under any other rule or statute providing rest periods of different durations).

**Rule 6. Deductions, Credits, and Charges.**

6.1 Tips or Gratuities. It shall be unlawful for an employer to assert a claim to, right of ownership in, or control over tips or gratuities intended for employees in violation of the Colorado Wage Act, including C.R.S. § 8-4-103(6).

6.2 Credits Toward Minimum Wages. The only allowable credits an employer may take toward the minimum wage are those in Rules 6.2.1 - 6.2.3 below.

6.2.1 Lodging Credit. A lodging credit for housing furnished by the employer and used by the employee may be considered part of the minimum wage if it is:

(A) no greater than the smaller of (1) the reasonable and actual cost to the employer of providing the housing, (2) the fair market value of the housing, or (3) $25 per week for a room (in a shared residence, dormitory, or hotel) or $100 per week for a private residence (an apartment or a house);

(B) accepted voluntarily and without coercion, and primarily for the benefit or convenience of the employee, rather than of the employer; and

(C) recorded in a written agreement (electronic form is acceptable) that states the fact and amount of the credit (but need not be a lease).

6.2.2 Meal Credit. A meal credit, equal to the reasonable cost or fair market value of meals provided to the employee, may be used as part of the minimum hourly wage. No profits to the employer may be included in the reasonable cost or fair market value of such meals furnished. Employee acceptance of a meal must be voluntary and uncoerced.

6.2.3 Tip Credit. A tip credit no greater than $3.02 per hour may be used to offset cash wages for employers of tipped employees. An employer must pay a cash wage of at least the amount specified for the applicable year in the PAY CALC Order if it claims a tip credit against its minimum hourly wage obligation; if an employee's tips combined with the cash wage of at least the amount specified for the applicable year in the PAY CALC Order do not equal the minimum hourly wage, the employer must make up the difference in cash wages.

6.3 Uniforms.

6.3.1 Where wearing a particular uniform or special apparel is a condition of employment, the employer shall pay the cost of purchases, maintenance, and cleaning of the uniforms or special apparel, with the following exceptions:

(A) if the uniform furnished by the employer is plain and washable, and does not need or require special care such as ironing, dry cleaning, pressing, etc., the employer need not maintain or pay for cleaning; and

(B) clothing that is ordinary, plain, and washable that is prescribed as a uniform need not be furnished by the employer unless a special color, make, pattern, logo, or material is required.

6.3.2 The cost of ordinary wear and tear of a uniform or special apparel shall not be deducted from an employee's wages.

**Rule 7. Employer Record-Keeping and Posting Requirements.**

7.1 Employee Records. Every employer shall keep at the place of employment, or at the employer's principal place of business in Colorado, a true and accurate record for each employee which contains the following information:

(A) name, address, occupation, and date of hire of the employee;

(B) date of birth, if the employee is under 18 years of age;

(C) daily record of all hours worked;

(D) record of credits claimed and of tips; and

(E) regular rates of pay, gross wages earned, withholdings made, and net amounts paid each pay period.

7.2 Issuance of Earnings Statement. An itemized earnings statement of the information in Rule 7.1(D)-(E) and the total hours worked in the pay period, with the employee’s and the employer’s names, shall be provided to each employee each pay period.

7.3 Maintenance of Earnings Statement Information. An employer shall retain records reflecting the information contained in an employee’s itemized earnings statement as described in this rule for at least 3 years after the wages or compensation were due, and for the duration of any pending wage claim pertaining to the employee. Each employer shall provide each employee access to the information in Rules 7.1(A) and (C) in any of the following forms it chooses:

(A) provide the information with the regular earnings statements;

(B) provide each employee with access to a functioning electronic portal that shows the information – but this method is permissible only if the employer knows an email address of the employee; or

(C) provide each employee the information for the entire calendar year by January 31st the following year and, in addition, provide the information to an employee upon a request that an employee may make once per year.

7.4 Posting and Distribution Requirements.

7.4.1 Posting. Every employer subject to the COMPS Order must display a COMPS Order poster for the current year, with applicable dollar figures as stated in the PAY CALC Order for that year, published by the Division in an area frequented by employees where it may be easily read during the workday. If the work site or other conditions make a physical posting impractical (including private residences employing only one worker, and certain entirely outdoor work sites lacking an indoor area), the employer shall provide a copy of the COMPS Order or poster to each employee within his or her first month of employment, and shall make it available to employees upon request. Employers shall be deemed noncompliant if they attempt to minimize the effect of posters or notices required by statute or these Rules, such as by communicating positions contrary to, or discouraging the exercise of rights covered in, the required poster or notice. An employer that does not comply with the above requirements of this paragraph shall be ineligible for any employee-specific credits, deductions, or exemptions in the COMPS Order, but shall remain eligible for employer- or industry-wide exemptions, such as exempting an entire employer or industry from any overtime or meal/rest period requirements in Rules 4-5.

7.4.2 Distribution. Every employer publishing or distributing to employees any handbook, manual, or written or posted policies shall include a copy of the COMPS Order, or a COMPS Order poster published by the Division, with any such handbook, manual, or policies. Every employer that requires employees to sign any handbook, manual, or policy shall, at the same time or promptly thereafter, include a copy of the COMPS Order, or a COMPS Order poster published by the Division, and have the employee sign an acknowledgement of being provided the COMPS Order or the COMPS Order poster.

7.4.3 Translation. Employers with any employees with limited English language ability shall:

(A) use a Spanish-language version of the COMPS Order and poster published by the Division, if the employee(s) in question speak Spanish; or

(B) contact the Division to request that the Division, if possible, provide a version of the COMPS Order and poster in another language that any employee(s) need.

**Rule 8 Administration and Interpretation.**

8.1 Recovery of Wages.

(A) Availability of court action or Division administrative complaint. An employee receiving less than the full wages or other compensation owed is entitled to recover in a civil action the unpaid balance of the full amount owed, together with reasonable attorney fees and court costs, notwithstanding any agreement to work for a lesser wage, pursuant to C.R.S. §§ 8-4-121, 8-6-118. Alternatively, an employee may elect to pursue a complaint through the Division's administrative procedure as described in the Colorado Wage Act, C.R.S. § 8-4-101, et seq.

(B) No minimum claim size. There is no minimum size of a wage claim, and thus no claim too minimal ("*de minimis*") for recovery, because Article 4 requires paying "[a]ll wages or compensation" (C.R.S. § 8-4-103(1)(a)), and authorizes civil actions "to recover any amount of wages or compensation" (C.R.S. § 8-4-110(1)) and Division complaints "for any violation" (C.R.S. § 8-4-111(1)(a)).

8.2 Complaints. Any person may register with the Division a written complaint that alleges a violation of the COMPS Order within 2 years of the alleged violation(s), except that actions brought for a willful violation shall be commenced within 3 years.

8.3 Investigations. The Director or a designated agent shall investigate and take all proceedings necessary to enforce the payment of the minimum wage and other provisions of the COMPS Order, pursuant to these rules and C.R.S. Title 8, Articles 1, 4, 6, and 13.3. Violations may be subject to the administrative procedure as described in the Colorado Wage Act, C.R.S. § 8-4-101, et seq.

8.4 Violations. It is theft under the Criminal Code (C.R.S. § 18-4-401) if an employer or agent:

(A) willfully refuses to pay wages or compensation, or falsely denies the amount of a wage claim, or the validity thereof, or that the same is due, with intent to secure for himself, herself, or another person any discount upon such indebtedness or any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, coerce, delay, or defraud the person to whom such indebtedness is due (C.R.S. § 8-4-114); or

(B) intentionally pays or causes to be paid to any such employee a wage less than the minimum (C.R.S. § 8-6-116).

8.5 Reprisals. Employers shall not threaten, coerce, or discriminate against any person for the purpose of reprisal, interference, or obstruction as to any actual or anticipated investigation, hearing, complaint, or other process or proceeding relating to a wage claim, right, or rule. Violators may be subject to penalties under C.R.S. §§ 8-1-116, 8-1-140, 8-4-120, and/or 8-6-115.

8.6 Division and Dual Jurisdiction. The Division shall have jurisdiction over all questions arising with respect to the administration and interpretation of the COMPS Order. Whenever employers are subjected to Colorado law as well as federal and/or local law, the law providing greater protection or setting the higher standard shall apply. For information on federal law, contact the U.S. Department of Labor, Wage and Hour Division.

8.7 Construction.

(A) Liberal construction of COMPS, narrow construction of exceptions/ exemptions. Under the C.R.S. § 8-6-102 “Construction” provision (“Whenever this article or any part thereof is interpreted by any court, it shall be liberally construed by such court”), applicable to rules on “wages which are inadequate to supply the necessary cost of living” (§ 8-6-104), on “conditions of labor detrimental to [worker] health or morals” (§ 8-6-104), on “conditions of labor and hours of employment not detrimental to health or morals for workers” (§ 8-6-106), on “what are unreasonably long hours” (§ 8-6-106), on what requirements are “necessary to carry out the provisions of this article” (§ 8-6-108.5), on minimum and overtime wages (§§ 8-6-109, -111, -116, -117), and on who qualifies as an “agricultural employer” (§ 8-6-120 (incorporating §§ 8-13.5-201(1); 8-3-104(1)(b))): The provisions of the COMPS Order shall be liberally construed, with exceptions and exemptions accordingly narrowly construed.

(B) Subpart included in cross-references. Where any Division rule references another rule, the reference shall be deemed to include all subparts of the referenced rule.

(C) Minimum Wage Order references. References to the Colorado "Minimum Wage Order" shall be deemed to reference the COMPS Order, as the successor to the Colorado Minimum Wage Order.

8.8 Separability. The COMPS Order is intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the COMPS Order remains valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

8.9 Basis for Calculation. Calculations in the PAY CALC and COMPS Orders are based on Section 15 of Article XVIII of the Colorado Constitution ("Section 15") ("Colorado's minimum wage is … adjusted annually for cost of living increases, as measured by the … Consumer Price Index used for Colorado"); C.R.S. Article 8, Title 6; and the COMPS Order. All inflation-adjusted values applicable to the COMPS and PAY CALC Orders are based on the CPI used for Colorado, the Denver-Aurora-Lakewood CPI published by the federal Bureau of Labor Statistics. To effectuate the above provisions that employees must be paid not less than the prior year's minimum wage adjusted for inflation, Division rules and practice must round up, to the nearest cent, any fractional cents yielded by the inflation adjustment. Other than in the annual minimum wage calculation, Division rules and practice round fractional cents of at least 0.5 up, and of under 0.5 down.

**Appendix A. Statutory Authority.**

- C.R.S. §§ 8-1-101 ("'General order' means an order of the director applying generally throughout the state to all persons, employments, or places of employment under the jurisdiction of the division");

- 8-1-103 ("[P]owers, duties, and functions of the director … , includ[e] … promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications");

- 8-1-107 ("[T]he director has the duty and the power to … [a]dopt reasonable and proper rules and regulations relative to the exercise of his powers and proper rules and regulations to govern the proceedings of the division and to regulate the manner of investigations and hearings.")

- 8-1-108 ("[G]eneral orders shall be effective … after they are adopted by the director and posted"; "All orders of the division shall be … in force and prima facie reasonable and lawful until … found otherwise.");

- 8-1-111 ("The director is vested with the power and jurisdiction to have such supervision of every employment and place of employment … [to] determine the conditions under which the employees labor … , to enforce all provisions of law relating thereto … to administer all provisions of this article with respect to the relations between employer and employee and to do all other acts and things convenient and necessary to accomplish the purposes of this article.");

- 8-1-130 ("The director has full power to hear and determine all questions within his jurisdiction, and his findings, award, and order issued thereon shall be final agency action.");

- 8-4-111 ("It is the duty of the director … to enforce generally the provisions of this article.");

- 8-6-101.5 ("[T]he minimum wage requirements of section 15 of article xviii of the state constitution, and any minimum wage laws enacted pursuant to this article 6, apply to agricultural employers employing agricultural workers. ...The Colorado minimum wage that an agricultural employer must pay to an agricultural worker who is principally engaged in the range production of livestock … on the open range is: (i) beginning January 1, 2022, ... five hundred fifteen dollars per week; and (ii) beginning January 1, 2023, the minimum wage required in the prior calendar year adjusted annually .... . The director may set a higher minimum wage than is required … consistent with the director's authority and duties[.]");

- 8-6-101.5 ("An agricultural worker is entitled to an uninterrupted and duty-free meal period of at least a thirty-minute duration when the agricultural worker's shift exceeds five consecutive hours. ...An agricultural worker is entitled to an uninterrupted and duty-free rest period of at least ten minutes within each four hours of work."); 8-13.5-203(3) ("An agricultural employer shall provide agricultural workers engaged in hand weeding and hand thinning an additional five minute rest period, which, insofar as is practicable, must be in the middle of each work period. The authorized rest period must be based on the total hours worked daily at the rate of fifteen minutes net rest time per four hours worked, or a major fraction thereof. The agricultural employer shall count the authorized rest period as hours worked and not deduct the rest period from the agricultural worker's wages.");

- 8-6-102 ("Whenever this article or any part thereof is interpreted by any court, it shall be liberally construed.");

- 8-6-104 ("It is unlawful to employ workers in any occupation … for wages which are inadequate to supply the necessary cost of living and to maintain the health of the workers .... It is unlawful to employ workers in any occupation … under conditions of labor detrimental to their health or morals.");

- 8-6-105 ("It is the duty of the director to inquire into the wages paid to employees and into the conditions of labor … in any occupation … if the director has reason to believe … conditions of labor are detrimental to the health or morals of said employees or that the wages paid to a substantial number of employees are inadequate to supply the necessary cost of living and to maintain such employees in health.");

- 8-6-106 ("The director shall determine the minimum wages sufficient for living wages … ; standards of conditions of labor and hours ... not detrimental to health or morals for workers; and what are unreasonably long hours.");

- 8-6-108 ("[F]or the purpose of investigating any of the matters [s/]he is authorized to investigate by this article … [t]he director has power to make reasonable and proper rules and procedure and to enforce said rules and procedure.""");

- 8-6-109 ("If after investigation the director is of the opinion that the conditions of employment surrounding said employees are detrimental to the health or morals or that a substantial number of workers in any occupation are receiving wages … inadequate to supply the necessary costs of living and to maintain the workers in health, the director shall proceed to establish minimum wage rates.");

- 8-6-111 ("Overtime, at a rate of one and one-half times the regular rate of pay, may be permitted by the director under conditions and rules and for increased minimum wages which the director, after investigation, determines and prescribes by order and which shall apply equally to all employers in such industry or occupation.");

- 8-6-116 ("The minimum wages fixed by the director, as provided in this article, shall be the minimum wages paid to the employees, and the payment … of a wage less than the minimum … is unlawful");

- 8-6-117 ("In every prosecution … of this article, the minimum wage established by the director shall be prima facie presumed to be reasonable and lawful and the wage required to be paid. The findings of fact made by the director acting within prescribed powers, in the absence of fraud, shall be conclusive.");

- 8-6-120 ("The director shall promulgate rules providing meaningful overtime and maximum hours protections to agricultural employees. … In promulgating such rules, the director shall consider the inequity and racist origins of the exclusion of agricultural employees from overtime and maximum hours protections available to other employees, the fundamental right of all employees to overtime and maximum hours standards that protect the health and welfare of employees, and the unique difficulties agricultural employees have obtaining workplace conditions equal to those provided to other employees.");

- 8-12-115 ("The director shall enforce … this article" and "shall promulgate rules and regulations more specifically defining the occupations and types of equipment permitted or prohibited by this article.");

- 8-13.3-403 ("The division shall promulgate rules regarding compensation and accrual of paid sick leave for employees employed and compensated on a fee-for-service basis.");

- 8-13.3-407 (“Determinations made by the division under this section [as to paid sick leave] are appealable pursuant to section 8-4-111.5 and rules promulgated by the department regarding appeals and strategic enforcement.”);

- 8-13.3-408 (“Each employer shall notify its employees that they are entitled to paid sick leave, pursuant to rules promulgated by the division.”);

- 8.13.3-410 (“The director may coordinate implementation and enforcement of this part and adopt rules as necessary for such purposes.”);

- 8.13.35-202 (c) (“To ensure that agricultural workers have meaningful access to services, the director of the division shall promulgate rules regarding additional times during which an employer may not interfere with an agricultural worker’s reasonable access to key service providers, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours.”);

- 8.13.5-203 (“The director of the division shall promulgate rules that require agricultural employers to protect agricultural workers from heat-related stress illnesses and injuries when the outside temperatures reach eighty degrees or higher, with discretion to adjust requirements based on environmental factors, exposure time, acclimatization, and metabolic demands of the job as set forth in the federal Department of Health and Human Services Centers for Disease Control and Prevention National Institute for Occupational Safety and Health 2016 Revised Publication: Criteria for a Recommended Standard, Occupational Exposure to Heat and Hot Environments.”); and

- the Administrative Procedure Act, C.R.S. § 24-4-103.

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**Editor's Notes**

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