

Notice of Proposed Rulemaking
Department of Law
Attorney General - Consumer Protection Section
Proposed Draft Amendments to the Colorado Privacy Act Rules
4 CCR 904-3

Date & Time of Public Hearing

Wednesday, September 10, 2025, at 10am

I. Notice

As required by the Colorado Administrative Procedure Act found at C.R.S. § 24-4-103, the Department of Law gives notice of proposed rulemaking to consider proposed draft amendments to the Colorado Privacy Act (CPA) Rules located at 4 CCR 904-3. The proposed draft amendments are intended to govern the implementation of statutory changes to the CPA enacted by Senate Bill 24-041 pertaining to privacy protections for Minor's online data.

The proposed rulemaking hearing is scheduled for September 10, 2025, at 10:00 AM and will continue as needed. The hearing will be conducted both in person and by video conference. All parties interested in attending the public hearing virtually must register through the registration link provided in the table below in order to receive the Zoom meeting link. While parties interested in attending the public hearing in person are not required to register, we do encourage advanced registration for planning purposes. Any party in attendance will be invited to provide oral comments even if not registered in advance.

Date	Location	Time	Registration Link
September 10, 2025	In Person: Gather Room Level L2 1700 Lincoln Denver, CO 80203 Video Conference: Link available upon registration	10:00 AM	https://us02web.zoom.us/webinar/register/WN_2Npj_TuoT1ePL6edl0u7w

How to Register for the Rulemaking Hearing

You must click on the registration link provided in the table above to register to attend the hearing remotely. You may also register in advance to attend the hearing in person but are not required to do so. When you register, you must provide your full name and email address. You may also provide the name of the organization that you are representing, if any. Finally, please indicate whether you plan on attending the hearing in person or remotely by video conference, and whether you plan to testify during the hearing. When you submit your registration, you will receive a confirmation email including details about how to join the hearing virtually or attend in person. The registration link for the hearing is also available on the Colorado Department of Law's CPA rulemaking website at coag.gov/CPA.

II. Subject

The Colorado Department of Law (the "Department") is considering draft amendments and additions to the Colorado Privacy Act rules. The purpose of the draft amendments is to govern the implementation of statutory changes to the CPA enacted by Senate Bill 24-041 pertaining to privacy protections for Minor's online data.

Only the rule provisions included in the proposed draft amendments will be opened for comment during this rulemaking period. A detailed Statement of Basis, Purpose, and Specific Statutory Authority and the complete set of proposed draft amendments follow this notice and are incorporated herein by reference.

The Department invites comments from all members of the public regarding the proposed draft amendments during the rulemaking process.

III. Statutory Authority

The specific authority under which the Attorney General shall establish these proposed draft amendments is set forth in C.R.S. § 6-1-1313.

IV. Copies of the Notice, Proposed Draft Amendments, and the Statement of Basis, Purpose & Authority

The notice of hearing, the proposed draft amendments, and the Statement of Basis, Purpose, and Specific Statutory Authority are available for review at the Department's CPA rulemaking website at coag.gov/CPA. If there are changes made to the proposed draft amendments prior to the hearing, the updated proposed draft amendments will be provided to the CPA rulemaking mailing list and posted on the Department's website by September 3, 2025. The Department encourages all interested parties to sign up for the

Colorado Privacy Act rulemaking mailing list (available at <https://lp.constantcontactpages.com/su/zlKnX1I/CPA>).

Please note that the proposed draft amendments being considered are subject to further changes and modifications after the public hearings and the deadline for the submission of written comments.

V. Opportunity to Testify and Submit Written and Oral Comments

The Attorney General and Department of Law strive to make the rulemaking process inclusive to all. Interested and affected parties are welcome to testify at the rulemaking hearing and to submit written comments through the online CPA rulemaking comment portal.

Rulemaking Hearing (Wednesday, September 10th, 2025)

The format of the rulemaking hearing will proceed as follows:

- The Hearing Officer will open the hearing and provide a brief introduction of the hearing procedures.
- The Colorado Department of Law staff will present the draft amendments and discuss public input, feedback, and suggestions on the draft rules provided through written comment and at stakeholder sessions.
- Colorado Department of Law staff will present a summary of the draft amendments and any proposed revisions based on rulemaking comments.
- Participants will then have the opportunity to give testimony regarding the proposed draft amendments.

Hybrid Hearing Procedures

At the beginning of the hearing, we will mute all public participants attending online. After the introduction, a summary of the rulemaking, and a review of any proposed revisions to the rules, we will open the hearing to testimony as follows:

- For the sake of efficiency, those who are attending this hearing in person will be called upon first to provide their public comment. We will reference the sign-up sheet provided and individually call upon participants who wish to provide their testimony. Once we have exhausted the sign-up sheet, we will move forward with the testimony of online participants.
- Referencing registration records, we will identify and individually unmute online participants who indicated that they plan to testify during the hearing.

- When we exhaust the list, we will ask whether any additional attendees wish to testify. In-person attendees may raise their hands to indicate their intention to testify, and online attendees may raise/lower their hand virtually.
- To ensure that the hearing is prompt and efficient, oral testimony may be time limited.

Webinar Audio Requirements: We strongly encourage attendees to join the webinar through their computer or Zoom meeting app, even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset or headphones. As outlined above, we will first receive online testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand to testify.

Written Comments

You may submit written comments through our comment portal available at coag.gov/CPA during the comment period between July 29, 2025, and September 10, 2025. If the formal rulemaking hearing continues beyond September 10, 2025, the comment period will continue through the last day of the formal rulemaking hearing. Please submit written comments by September 5, 2025, to be considered for any proposed revisions presented at the hearing. Any updates to the proposed draft amendments will be provided to the CPA rulemaking mailing list and posted on the Department's website by September 3, 2025. All written comments must be received on or before Wednesday, September 10, 2025 at 11:59 P.M. MST, or if the formal rulemaking hearing continues beyond September 10, 2025, before 11:59 P.M. MST on the last day of the formal rulemaking hearing.

As soon as possible after receipt, written comments will be posted online at the Colorado Privacy Act Rulemaking Comment website: <https://comments.coag.gov/s/colorado-privacy-act-2024>. All written comments will be added to the official rulemaking record.

To promote timely sharing of information among all stakeholders, the Department strongly encourages stakeholders to submit written comments early in this process.

VI. Recording of the Hearing

The hearing will be recorded. Both the hearing and recordings will be part of the public rulemaking record. After the hearing concludes, the recording will be available on the Colorado Department's CPA Rulemaking website at coag.gov/CPA.

VII. Special Accommodations

If you need special accommodations, please contact our office at coprivacy@coag.gov at least two (2) weeks prior to the scheduled hearing date.

COLORADO DEPARTMENT OF LAW

Colorado Privacy Act Rules

Statement of Basis, Specific Statutory Authority, and Purpose

4 CCR 904-3

Basis and Specific Statutory Authority

On May 31, 2024, Governor Polis signed Senate Bill 24-041: Concerning Adding Data Protections for a Minor’s Online Activity. Senate Bill 24-041 amends Part 13 of the Colorado Privacy Act, C.R.S. §§ 6-1-1301, et seq. (“CPA”) to add provisions strengthening Personal Data protections for Minors. On May 23, 2025, Governor Polis signed Senate Bill 25-276: Protecting Civil Rights Immigration Status. Senate Bill 25-276 amends Part 13 of the CPA to add Precise Geolocation Data as covered Sensitive Data.

The CPA was codified as part of the Colorado Consumer Protection Act (“CCPA”), which grants the Attorney General the authority to “promulgate such Rules as may be necessary to administer the provisions” of the CCPA. C.R.S. § 6-1-108(1). The CPA gives the Attorney General authority to “promulgate Rules for the purpose of carrying out” the CPA, C.R.S. § 6-1-1313(1).

The proposed draft amendments to the Colorado Privacy Act Rules (“the CPA Rules”) are for the purpose of carrying out the CPA, specifically modifying the CPA Rules to be consistent with the CPA as amended by Senate Bills 24-041 and 25-276.

Purpose of the Proposed Amendments

Senate Bills 24-041 and 25-276 added provisions that strengthened Personal Data protections for Minors and for Sensitive Data, respectively. This Rulemaking amends current rule language for the purpose of carrying out Part 13 of the CPA as amended by Senate Bills 24-041 and 25-276. The promulgation of these proposed draft amendments to the CPA Rules does not preclude any Rulemaking the Attorney General chooses to conduct at a later date pursuant to C.R.S. §§ 6-1-108(1) or 6-1-1313.

Senate Bill 24-041 amends the CPA to add C.R.S. §§ 6-1-1305.5, 6-1-1308.5, and 6-1-1309.5. For the purposes of these sections, Minors means a person under the age of eighteen (18). Section 6-1-1305.5 sets forth certain obligations of Processors related to the data of Minors. Section 6-1-1308.5 requires controllers that offer any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a Minor to use reasonable care to avoid any heightened risk of harm to Minors caused by the online service, product, or feature. Controllers who meet specific obligations, including obtaining consent before engaging in targeted advertising to a Minor, selling the Minor’s data, profiling the Minor, or using any system design feature to significantly increase, sustain, or extend a Minor's use of the online service, product, or feature receive a rebuttable presumption that they have used

reasonable care. C.R.S. § 6-1-1309.5 requires that controllers that offer any online service, product, or feature to a consumer whom such controller actually knows or willfully disregards is a Minor to conduct certain data protection assessments if there is a heightened risk of harm to Minors.

The proposed draft amendments to the CPA changes clarify the amendments made by Senate Bill 24-041. The draft amendments add Rule 6.13 and Rule 6.14 to Part 6, and make certain modifications to Part 7. Draft Rule 6.13 sets forth principles and provides examples to aid in determining if a Controller willfully disregards that a Consumer is a Minor as contemplated in C.R.S. § 6-1-1308.5. Draft Rule 6.14 identifies considerations for determining what is a system design feature that significantly increases, sustains, or extends a Minor's use of an online service, product, or feature and is subject to the consent requirement as contemplated in C.R.S. § 6-1-1308.5.

The revisions to Rule 7.03 add language regarding obtaining consent to use a system design feature that significantly increases, sustains, or extends a Minor's use of an online service, product, or feature. These revisions help Colorado Consumers understand the specific data privacy rights under the CPA that are applicable to the online activities and data of Minors, and clarify the obligations that companies subject to the CPA have with respect to the online activities and data of Minors under the CPA and to facilitate their compliance.

Senate Bill 25-276 amends the CPA to add Precise Geolocation Data to the defined categories of Sensitive Data and clarifies the Controller duty to obtain consent prior to the processing or sale of Sensitive Data. The revision to Rule 2.02 removes language that is no longer relevant given this statutory change.

While the Department of Law (Department) has endeavored to make this Statement of Basis, Specific Statutory Authority, and Purpose comprehensive, the details contained herein may not fully delineate the issues that are discussed or the Rules that are eventually adopted. The Department intends to take stakeholder input sincerely, and this may result in additional rules and amendments, significant changes to the proposed draft amendments, or additional portions of rules that are not detailed herein. For this reason, the Department strongly encourages all interested persons to sign-up for updates through the mailing list on the Department's CPA Rulemaking webpage at coag.gov/CPA, and to check the webpage periodically for updates.

Rulemaking Considerations

Public involvement and transparency are important to the success of the CPA rulemaking process. The proposed draft Rules incorporate and reflect public input received from interested parties during the pre-rulemaking phase. The Department plans to further engage with stakeholders and interested parties to gain valuable insight and comments and refine the proposed draft Rules before publishing Final Rules. Before writing the proposed draft Rules, the Department solicited input to understand how regulations could best clarify the Children's

Amendment, protect minor Consumers, and enable compliance. From June 23, 2025, through July 11, 2025, members of the public and other interested parties were given the opportunity to provide written comments about the Children's Amendment to the Department through an online portal. Pre-Rulemaking comments can be found on the Department's CPA website at <https://comments.coag.gov/s/colorado-privacy-act-2025>.

In creating the proposed draft Rules, the Department considered the questions, concerns, suggestions, and resources shared by interested parties. In considering stakeholder input, the Department sought to address the questions and concerns of the variety of CPA stakeholders, clarify the legislation and entities' compliance responsibilities, and ensure the protection of the privacy rights granted to Minor Consumers by Senate Bill 24-041.