



2016 Departmental Regulatory Agenda
Office of the Secretary of State
November 1, 2015

To: The Staff of Legislative Council

Re: Colorado Department of State – 2016 Departmental Regulatory Agenda

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INTRODUCTION

The Colorado Secretary of State submits the following 2016 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.¹

DEPARTMENT REGULATORY AGENDA

8 CCR 1505-1: Elections

A) New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules

The Secretary of State may commence rulemaking to consider amendments to the Election Rules in order to improve the administration and enforcement of and to answer questions arising under Colorado elections law.²

Specifically, this office may propose and consider new and amended rules concerning the following:

- Watchers
- Signature verification
- Uniform voting systems

Additionally, the Secretary of State may commence rulemaking as necessary to:

- Propose amendments in response to questions from the Office of Legislative Legal Services
- Implement amendments to Colorado elections law made during the 2016 second regular session of the 70th General Assembly
- Address litigation concerns and outstanding cases
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.

B) Statutory or other basis for adopting those rules

- Section 1-1-107, C.R.S.
- Section 1-1.5-104, C.R.S.

Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.

C) Contemplated schedule for adopting the rules

This office estimates commencement of rulemaking by the first quarter of 2016 and anticipates adoption of rules before the June 2016 primary election. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.³

D) Identification of persons or parties that may be positively or negatively affected by the rules

- All current and potential Colorado residents
- All Colorado counties
- Political subdivisions
- Voting system manufacturers

¹ Section 2-7-203(4), C.R.S., (2015)

² Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 (“HAVA”), P.L. No. 107-252.

³ Section 24-4-103 (3) (a), C.R.S. (2015).

- Officeholders, candidates, and committees
- Poll watchers, election judges, and other interested parties

8 CCR 1505-2: Bingo and Raffles Games

A) New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules

The Secretary of State may commence rulemaking to consider amendments to the Rules Concerning Bingo and Raffles Games in order to improve the administration and enforcement of and to answer questions arising under Colorado bingo and raffles law.⁴

Specifically, this office may propose and consider new and amended rules concerning the following:

- Closing a bingo game.
- Saving seats and playing space at a bingo game.
- Multiple bingo occasions.
- Current Rule 15.2.2(i) contains erroneous phrasing. The rule also mistakenly excludes “landlords” from the category of persons to whom games of chance equipment may be sold, furnished, and distributed. The Secretary may propose revisions to correct these errors.

Additionally, the Secretary of State may commence rulemaking as necessary to:

- Implement amendments to Colorado bingo and raffles law made during the 2016 second regular session of the 70th General Assembly
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.
- Amend rules as necessary in accordance with the 2016 mandatory rule review

B) Statutory or other basis for adopting those rules

- Section 12-9-103(1)(b), C.R.S.
- Section 12-9-107(5), C.R.S.
- Section 12-9-107.1(6)(a), C.R.S.

Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.

C) Contemplated schedule for adopting the rules

This office estimates commencement of rulemaking by the third quarter of 2016. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.⁵

D) Identification of persons or parties that may be positively or negatively affected by the rules

- Bingo-affle licensees
- Landlord licensees
- Bingo players

⁴ Article XVIII, Section 2 of the Colorado Constitution and Article 9, Title 12 of the Colorado Revised Statutes.

⁵ Section 24-4-103 (3) (a), C.R.S. (2015).

8 CCR 1505-6: Rules Concerning Campaign and Political Finance

A) *New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules*

The Secretary of State may commence rulemaking for the Rules Concerning Campaign and Political Finance, as necessary to improve the administration and enforcement of and to answer questions arising under Colorado campaign finance law⁶.

Additionally, the Secretary of State may commence rulemaking as necessary to:

- Implement amendments to Colorado campaign finance law adopted during the 2016 second regular session of the 70th General Assembly
- Address court decisions and outstanding cases
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.
- Amend rules as necessary in accordance with the 2016 mandatory rule review

B) *Statutory or other basis for adopting those rules*

- Article XXVIII, Section 8 of the Colorado Constitution, requires the Secretary of State to “promulgate rules relating to filing in accordance with article 4 of title 24, C.R.S., or any successor section.”
- Article XXVIII, Section 9 of the Colorado Constitution, requires the Secretary of State to “[p]romulgate such rules, in accordance with Article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of this [Article XXVIII] Article;”.
- Section 1-45-111.5, C.R.S., (2015), states that “the secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision” of Title 1, Article 45.

Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.

C) *Contemplated schedule for adopting the rules*

This office estimates commencement of rulemaking by the second quarter of 2016. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.

D) *Identification of persons or parties that may be positively or negatively affected by the rules*

- Colorado residents and potential residents
- Officeholders, candidates, and committees

8 CCR 1505-7: UCC Filing Office Rules

The Secretary of State does not anticipate rulemaking concerning the UCC Filing Office Rules, however, may commence rulemaking as necessary to:

- Improve the administration and enforcement of and to answer questions arising under Colorado’s Uniform Commercial Code⁷

⁶ Article 45 of Title 1, C.R.S., and Article XXVIII of the Colorado Constitution.

⁷ Article 9 of Title 4, C.R.S.

- Implement amendments to Colorado’s Uniform Commercial Code adopted during the 2016 second regular session of the 70th General Assembly
- Improve rule organization and readability, repeal obsolete rules and language that duplicates statute, and adopt other technical amendments as necessary for consistency with Department rulemaking format and style
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.
- Amend rules as necessary in accordance with the 2016 mandatory rule review

Statutory and constitutional authority may depend on the subject matter of rulemaking. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.

8 CCR 1505-8: Rules Concerning Lobbyist Regulation

The Secretary of State does not anticipate rulemaking regarding the Rules Concerning Lobbyist Regulation, however, may commence rulemaking as necessary to:

- Improve the administration and enforcement of and to answer questions arising under Colorado laws regarding lobbyist regulation⁸
- Implement amendments to Colorado laws regarding lobbyist regulation made during the 2016 second regular session of the 70th General Assembly
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.

Statutory and constitutional authority may depend on the subject matter of rulemaking. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.

8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act

The Secretary of State does not anticipate rulemaking for the Rules for the Administration of the Colorado Charitable Solicitations Act, however, may commence rulemaking as necessary to:

- Improve the administration and enforcement of and to answer questions arising under the Colorado Charitable Solicitations Act⁹
- Implement amendments to the Colorado Charitable Solicitations Act adopted during the 2016 second regular session of the 70th General Assembly
- Improve rule organization and readability, repeal obsolete rules and language that duplicates statute, and adopt other technical amendments as necessary for consistency with Department rulemaking format and style
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.
- Amend rules as necessary in accordance with the 2016 mandatory rule review

Statutory and constitutional authority may depend on the subject matter of rulemaking. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.

⁸ Part 3 of Article 6 of Title 24, C.R.S.

⁹ Article 16 of Title 6, C.R.S.

8 CCR 1505-11: Notary Program Rules

A) New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules

The Secretary of State may commence rulemaking to consider amendments to the Notary Program Rules in order to improve the administration and enforcement of and to answer questions arising under the Colorado Notaries Public Act.¹⁰

Specifically, this office may propose and consider new and amended rules concerning the following:

- Clarification regarding the term “legal name” as used in the notary commissions rules.

Additionally, the Secretary of State may commence rulemaking as necessary to:

- Implement amendments to the Colorado Notaries Public Act made during the 2016 second regular session of the 70th General Assembly
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.

B) Statutory or other basis for adopting those rules

- Section 12-55-104(5), C.R.S.

Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.

C) Contemplated schedule for adopting the rules

This office estimates commencement of rulemaking by the second quarter of 2016. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.

D) Identification of persons or parties that may be positively or negatively affected by the rules

- Notary commissions applicants

2015 Mandatory Rule Review Results & Related Rulemaking

The Secretary of State anticipates rulemaking in accordance with the 2015 mandatory rule review findings as follows:¹¹

8 CCR 1505-3: Rules Governing General Policies and Administration

The Secretary may propose amendments to the Rules Governing General Policies and Administration as necessary to:

- Clarify declaratory order rules in accordance with section 24-4-105(11), C.R.S.
- Improve rule organization and readability
- Ensure that the rules are written in plain language and easy to understand
- Repeal obsolete rules and language that duplicates statute
- Other technical amendments as necessary for consistency with Department rulemaking format and style

¹⁰ Article 55 of Title 12, C.R.S.

¹¹ Section 24-4-103.3(4), C.R.S. (2015).

Additionally, the Secretary may consider amendments to:

- Implement amendments to Colorado laws adopted during the 2015 First Regular Session of the 70th General Assembly
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.

Statutory and constitutional authority may depend on the subject matter of rulemaking. The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the first quarter of 2016.

8 CCR 1505-10: Rules Concerning the Electronic Recording Technology Grant Program

Results of the mandatory rule review indicate that the Electronic Recording Technology Grant Program rules are obsolete and inoperative. By the first quarter of 2016, the Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act to repeal 8 CCR 1505-10 in its entirety.

8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA)

The Secretary may propose amendments to the Rules Concerning Public Records Pursuant to the Colorado Open Records Act (CORA) as necessary to:

- Improve the administration and enforcement of and to answer questions arising under the Colorado Open Records Act¹²
- Clarify requirements in accordance with section 24-72-203(1)(a), C.R.S.
- Improve rule organization and readability
- Ensure that the rules are written in plain language and easy to understand
- Repeal obsolete rules and language that duplicates statute
- Other technical amendments as necessary for consistency with Department rulemaking format and style

Additionally, the Secretary may consider amendments to:

- Implement amendments to the Colorado Open Records Act adopted during the 2015 First Regular Session of the 70th General Assembly
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.

Statutory and constitutional authority may depend on the subject matter of rulemaking. The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the second quarter of 2016.

8 CCR 1505-14: Rules Concerning Conflict of Interest Disclosures

The Secretary may propose amendments to the Rules Concerning Conflict of Interest Disclosures as necessary to:

¹² Article 72 of Title 24, C.R.S.

- Improve the administration and enforcement of and to answer questions arising under Colorado standards of conduct law¹³
- Improve rule organization and readability
- Ensure that the rules are written in plain language and easy to understand
- Repeal obsolete rules and language that duplicates statute
- Other technical amendments as necessary for consistency with Department rulemaking format and style

Additionally, the Secretary may consider amendments to:

- Implement amendments to Colorado laws regarding standards of conduct adopted during the 2015 First Regular Session of the 70th General Assembly
- Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.

Statutory and constitutional authority may depend on the subject matter of rulemaking. The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the first quarter of 2016.

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2014

8 CCR 1505-1: Elections

Permanent rules adopted on August 6, 2015:

CCR Tracking Number	Type	Adopted	Effective
2015-00313	Permanent	8/6/2015	9/30/2015

The Secretary of State permanently adopted amendments to the election rules to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws and to implement legislation, clarify and simplify the rules, remove language duplicative of statute, and ensure consistency with Department rulemaking standards. The rules were also intended to improve elections administration in Colorado and to increase the transparency and security of the election process.

8 CCR 1505-6: Rules Concerning Campaign and Political Finance

A) Permanent rules adopted on 6/10/2015:

CCR Tracking Number	Type	Adopted	Effective
2015-00213	Permanent	6/10/2015	7/30/2015

The Secretary of State adopted amendments necessary to improve the administration and enforcement of Colorado campaign finance law and to clarify and simplify the rules, remove language duplicative of statute, and ensure consistency with Department rulemaking standards.

¹³ Article 18 of Title 24, C.R.S.

B) Permanent rules proposed on 9/15/2015:

CCR Tracking Number	Type	Adopted	Effective
2015-00574	Permanent	10/26/215	TBD

The Secretary is considering permanent adoption of temporary rules adopted on September 15, 2015. The temporary rules include corrective amendments to improve the administration and enforcement of Colorado campaign finance law.

C) Temporary rules adopted on 9/15/2015:

CCR Tracking Number	Type	Adopted	Effective
2015-00569	Temporary	9/15/2015	9/15/2015

The temporary amendments are adopted in response to questions from the Office of Legislative Legal Services and are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado campaign finance law.

8 CCR 1505-8: Rules Concerning Lobbyist Regulation

Permanent rules adopted on April 9, 2015:

CCR Tracking Number	Type	Adopted	Effective
2015-00141	Permanent	4/9/2014	5/30/2015

The Secretary of State adopted rule amendments to improve the administration and enforcement of Colorado laws regarding lobbyist regulation. Specifically, the revisions update terminology following the 2014 second regular session of the 69th General Assembly, clarify and simplify the rules, remove language duplicative of statute, correct numbering, and ensure consistency with Department rulemaking standards.

8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act

Permanent rules adopted on June 10, 2015:

CCR Tracking Number	Type	Adopted	Effective
2015-00208	Permanent	6/10/2015	12/17/2015

The Secretary of State adopted amendments to the rules for the administration of the Colorado Charitable Solicitations Act to improve the administration and enforcement of Colorado Charitable Solicitations laws. Specifically, the revisions implement House Bill 14-1206, clarify definitions, establish fines for paid solicitors, clarify and simplify rules, remove language duplicative of statute, correct numbering and citations, and ensure consistency with Department rulemaking standards.

PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2015, the Secretary of State will post this document on the Department's website at: http://www.sos.state.co.us/pubs/rule_making/regulatoryAgendas.html.

Additionally, the Secretary of State filed this agenda for publication in the November 10, 2015, Colorado Register.