



**2015 Departmental Regulatory Agenda**  
**Office of the Secretary of State**  
**October 17, 2014**

To: The Staff of Legislative Council

Re: Colorado Department of State – 2015 Departmental Regulatory Agenda

Contents:

INTRODUCTION .....	2
DEPARTMENT REGULATORY AGENDA.....	2
8 CCR 1505-1: Elections.....	2
8 CCR 1505-2: Bingo and Raffles Games .....	3
8 CCR 1505-3: Rules Governing General Policies and Administration.....	4
8 CCR 1505-6: Rules Concerning Campaign and Political Finance .....	5
8 CCR 1505-7: UCC Filing Office Rules .....	6
8 CCR 1505-8: Rules Concerning Lobbyist Regulation.....	7
8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act.....	8
8 CCR 1505-10: Rules Concerning the Electronic Recording Technology Grant Program.....	8
8 CCR 1505-11: Notary Program Rules .....	9
8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA).....	9
8 CCR 1505-14: Rules Concerning Conflict of Interest Disclosures.....	9
SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2013 .....	10
8 CCR 1505-1: Elections.....	10
8 CCR 1505-2: Bingo and Raffles Games .....	12
8 CCR 1505-11: Notary Program Rules .....	12
PUBLICATION AND AVAILABILITY TO THE PUBLIC .....	13

## INTRODUCTION

The Colorado Secretary of State submits the following 2015 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.<sup>1</sup>

## 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.<sup>2</sup>

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

- Overseas citizen and military voters
- Voter Registration Drive oversight
- Voter registration list maintenance
- Interstate voter crosscheck

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

- Address legislative changes and implement amendments to Colorado election law adopted during the 2015 First Regular Session of the 70th General Assembly
- Address court decisions
- Answer questions or implement recommendations from county clerk and recorders, the public, and other interested parties and organizations
- 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.

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<sup>1</sup> Section 2-7-203(4), C.R.S., (2014)

<sup>2</sup> 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.

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

- Section 1-1-107 (2) (a), C.R.S., (2014), authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-1.5-104 (1) (b), C.R.S., (2014), authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
- Section 1-1.5-104 (1) (e), C.R.S., (2014), authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545] and of this article.”

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 2015 and anticipates adoption of rules before the November 2015 coordinated election. The Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.<sup>3</sup>

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

- Colorado residents and potential residents
- County clerk and recorders
- Political subdivisions
- Voting system manufacturers
- Officeholders, candidates, and committees
- Voter Registration Drives
- Poll watchers and election judges
- Other interested parties and organizations

**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*

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<sup>3</sup> Section 24-4-103 (3) (a), C.R.S. (2014).

The Secretary of State may commence rulemaking for the Rules Concerning Bingo and Raffles Games to improve the administration and enforcement of and to answer questions arising under Colorado bingo and raffles law<sup>4</sup>.

Specifically, the Secretary of State may commence rulemaking to:

- Standardize requirements for both bingo and raffles electronic-pull-tab readers and random number generators (RNGs)
- Implement amendments to the Colorado bingo and raffles laws adopted during the 2015 First Regular Session of the 70<sup>th</sup> 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.

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

- Section 12-9-102 (19.3), C.R.S., (2014).
- Section 12-9-103 (1) (b), C.R.S., (2014).
- Section 12-9-107.1 (6) (a), C.R.S., (2014).
- Section 12-9-107.2 (6) (e), C.R.S., (2014).

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

*C) Contemplated schedule for adopting the rules*

The Secretary of State estimates that rulemaking will commence no later than mid-August 2015. The rulemaking schedule depends on the effective date of any legislation passed during the 2015 First Regular Session of the 70<sup>th</sup> General Assembly. 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*

- Pull tab equipment suppliers and manufacturer licensees

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

The Secretary of State does not anticipate rulemaking for the Rules Governing General Policies and Administration, however, may commence rulemaking as necessary to:

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

- Improve the administration and enforcement of and to answer questions arising under Colorado laws
- Implement amendments to Colorado laws adopted during the 2015 First 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.

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 1505-6: 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 law<sup>5</sup>.

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

- Implement amendments to Colorado campaign finance law adopted during the 2015 First Regular Session of the 70th General Assembly
- Address court decisions
- 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.

*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.”

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<sup>5</sup> Article 45 of Title 1, C.R.S., and Article XXVIII of the Colorado Constitution.

- 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., (2014), 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 2015 and anticipates adoption of rules before the November 2015 coordinated elections. 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 Code<sup>6</sup>
- Implement amendments to Colorado’s Uniform Commercial Code adopted during the 2015 First 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.

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.

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<sup>6</sup> Article 9 of Title 4, C.R.S.

## **8 CCR 1505-8: Rules Concerning Lobbyist Regulation**

*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 Lobbyist Regulation, as necessary to improve the administration and enforcement of and to answer questions arising under Colorado laws regarding lobbyist regulation<sup>7</sup>.

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

- Implement amendments to Colorado lobbyist regulation laws adopted by Senate Bill 14-217 during the 2014 Second Regular Session of the 69<sup>th</sup> General Assembly, including:
  - New rules to clarify the statutory definitions for “client” and “lobbying firm”
  - Amendments to clarify that a self-employed professional lobbyists may file a single registration statement and a single disclosure statement
  - Amendments to clarify the required timeframe to update a registration statement
  - Amendments to replace the term “principal” with “client” throughout the rules
- Implement amendments to the Colorado lobbyist regulation laws adopted during the 2015 First Regular Session of the 70<sup>th</sup> 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.

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

- Section 24-6-305 (2) (b), C.R.S., (2014), authorizes the Secretary of State to adopt rules and regulations to define, interpret, implement, and enforce the provisions of the Colorado lobbyist regulation law (Part 3, Article 6, Title 24 of the Colorado Revised Statutes).

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

*C) Contemplated schedule for adopting the rules*

The Secretary of State will commence rulemaking during the first quarter of 2015 and anticipates adoption of rules by mid-May to address known issues. The Secretary of State may commence additional rulemaking in the last quarter of 2015 to address legislative changes, if necessary.

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

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<sup>7</sup> Part 3 of Article 6 of Title 24, C.R.S.

- Single-member lobbying firms
- Registered professional lobbyists
- Prospective registered professional lobbyists
- Non-lobbyist individuals who file on the behalf of a professional lobbyist and lobbying firms

#### **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 Colorado charitable solicitations laws<sup>8</sup>
- Implement amendments to Colorado charitable solicitations laws adopted during the 2015 First 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.

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

The Secretary of State does not anticipate, however, may commence rulemaking as necessary to:

- Implement amendments to Colorado laws regarding the clerk and recorder technology fund<sup>9</sup> adopted during the 2015 First 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.

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.

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<sup>8</sup> Article 16 of Title 6, C.R.S.

<sup>9</sup> Section 30-10-422, C.R.S.

### **8 CCR 1505-11: Notary Program Rules**

The Secretary of State does not anticipate, however, may commence rulemaking as necessary to:

- Improve the administration and enforcement of and to answer questions arising under the Colorado Notaries Public Act.<sup>10</sup>
- Implement amendments to the Colorado Notaries Public Act adopted during the 2015 First 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.

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

The Secretary of State does not anticipate, however, may commence rulemaking as necessary to:

- Improve the administration and enforcement of and to answer questions arising under the Colorado Open Records Act<sup>11</sup>
- Implement amendments to the Colorado Open Records Act adopted during the 2015 First 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.

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 1505-14: Rules Concerning Conflict of Interest Disclosures**

The Secretary of State does not anticipate, however, may commence rulemaking as necessary to:

- Improve the administration and enforcement of and to answer questions arising under Colorado standards of conduct law<sup>12</sup>

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<sup>10</sup> Article 55 of Title 12, C.R.S.

<sup>11</sup> Article 72 of Title 24, C.R.S.

- Implement amendments to Colorado laws regarding standards of conduct adopted during the 2015 First 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.

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.

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2013

**8 CCR 1505-1: Elections**

*A) Temporary rules adopted on November 5, 2013:*

CCR Tracking Number	Type	Adopted	Effective
<a href="#">2013-01169</a>	Emergency	11/5/2013	11/5/2013

The Secretary of State temporarily adopted New Rule 10.7.5 to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.<sup>13</sup>

Under Colorado law, an individual may not be a candidate for elected office unless that person is an eligible elector and fully meets all qualifications of the office he or she seeks.<sup>14</sup> If a designated election official mistakenly certifies an ineligible candidate to the ballot and does not discover the mistake until it is too late to correct the ballots, electors might cast votes for the ineligible candidate. Temporary New Rule 10.7.5 rule was necessary to clarify that all votes cast for an ineligible candidate under the above scenario are invalid.

*B) Permanent rules adopted on November 14, 2013:*

CCR Tracking Number	Type	Adopted	Effective
<a href="#">2013-00938</a>	Permanent	11/14/2013	12/30/2013

The Secretary of State permanently adopted amendments and recodified the election rules to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election

<sup>12</sup> Article 18 of Title 24, C.R.S.

<sup>13</sup> 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.

<sup>14</sup> Article VII, section 6, Colorado Constitution; Section 1-4-501(1), C.R.S.

laws<sup>15</sup> and to implement amendments to the election laws adopted during the 2013 First Regular Session of the 69<sup>th</sup> General Assembly. The rules were also intended to improve elections administration in Colorado and to increase the transparency and security of the election process.

The General Assembly enacted House Bill 13-1303, which substantially changed how we administer elections in Colorado. Though Secretary of State staff pointed out several technical problems with the bill during the legislative process, our attempts to amend the bill were unsuccessful. In response to the recent and substantial legislation affecting elections, the Secretary of State’s office recodified the Election Rules. The rulemaking was intended to fill several gaps and harmonize several conflicting provisions that now exist in the Election Code as a result of HB 13-1303. In addition, the Secretary of State adopted amendments to implement House Bills 13-1038 and 13-1135.

*C) Temporary rules adopted on June 24, 2014:*

CCR Tracking Number	Type	Adopted	Effective
<a href="#">2014-00607</a>	Emergency	6/24/2014	6/24/2014

The Secretary of State temporarily adopted New Rule 7.13, concerning a ballot returned in an unofficial envelope, to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.<sup>16</sup> The revision is also intended to improve elections administration in Colorado.

Temporary adoption was necessary both to comply with law and to preserve the public welfare given the close proximity of the 2014 Primary Election and the fact that several electors returned otherwise valid mail ballots in an unofficial envelope. The Secretary of State adopted rules to provide clear guidance to affected electors and county clerks regarding the procedures for processing returned ballots

*D) Temporary and permanent rules adopted on September 10, 2014:*

CCR Tracking Numbers	Type	Adopted	Temporarily Effective	Permanently Effective
<a href="#">2014-00581</a> (permanent)	Emergency and Permanent	9/10/2014	9/10/2014	10/30/2014
<a href="#">2014-00946</a> (temporary)				

The Secretary adopted amendments to the election rules<sup>17</sup> to improve the administration and enforcement of Colorado elections law<sup>18</sup> and to increase the transparency and security of the election process. Specifically, the Secretary adopted rules concerning Colorado’s certified voting equipment conditions for use on a temporary and permanent basis.

Temporary adoption was necessary both to comply with law and to preserve the public welfare given the close proximity of the 2014 General Election. A public rulemaking hearing was conducted in accordance with the State Administrative Procedure Act<sup>19</sup> on July 17, 2014, to receive comment and testimony on the

<sup>15</sup> 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.

<sup>16</sup> 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.

<sup>17</sup> 8 CCR 1505-1.

<sup>18</sup> 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.

<sup>19</sup> Section 24-4-103 (3) (a), C.R.S. (2013).

proposed rules concerning voting system conditions for use. Adoption of the rules on a temporary basis was necessary to provide clear guidance to interested parties, including: county clerks, vote system vendors, and electors.

*E) Temporary and permanent rules adopted on September 10, 2014:*

CCR Tracking Numbers	Type	Adopted	Temporarily Effective	Permanently Effective
<a href="#">2014-00684</a> (permanent)	Emergency and Permanent	9/10/2014	9/10/2014	10/30/2014
<a href="#">2014-00943</a> (temporary)				

The Secretary adopted amendments to the election rules<sup>20</sup> to improve the administration and enforcement of Colorado elections law<sup>21</sup> and to increase the transparency and security of the election process. Specifically, the Secretary adopted rules to implement Senate Bills 14-161 and 14-158, and House Bill 14-1164 on a temporary and permanent basis.

Temporary adoption was necessary both to comply with law and to preserve the public welfare given the close proximity of the 2014 General Election. A public rulemaking hearing was conducted in accordance with the State Administrative Procedure Act<sup>22</sup> on August 14, 2014, to receive comment and testimony on the proposed rules. Adoption of the rules on a temporary basis was necessary to provide clear guidance to interested parties, including: county clerks, political parties, election judges, watchers, and electors.

**8 CCR 1505-2: Bingo and Raffles Games**

*Permanent rules adopted on June 25, 2014:*

CCR Tracking Number	Type	Adopted	Effective
<a href="#">2014-00478</a>	Permanent	6/25/2014	8/14/2014

The Secretary of State adopted amendments necessary to implement House Bill 14-1265, which reorganized and made technical and substantive changes to the Colorado bingo and raffles laws<sup>23</sup>. The Secretary also adopted other amendments to the rules in order to ensure uniform and proper administration, implementation, and enforcement of Colorado bingo and raffles laws, answer questions arising under these laws, and improve the administration of bingo and raffles games in Colorado. The amendments include revisions proposed by Colorado Bingo-Raffle Advisory Board members and bingo-raffle stakeholders.

**8 CCR 1505-11: Notary Program Rules**

*Permanent rules adopted on October 7, 2014:*

CCR Tracking	Type	Adopted	Effective
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<sup>20</sup> 8 CCR 1505-1.

<sup>21</sup> 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.

<sup>22</sup> Section 24-4-103 (3) (a), C.R.S. (2013).

<sup>23</sup> Article XVIII, Section 2 of the Colorado Constitution and Article 9, Title 12 of the Colorado Revised Statutes.

2015 Departmental Regulatory Agenda

Number			
<a href="#">2014-00826</a>	Permanent	10/7/2014	The rules will become permanently effective twenty days after publication in the Colorado Register. <sup>24</sup>

The Secretary of State adopted amendments necessary to ensure and improve the uniform and proper administration, implementation, and enforcement of the Colorado Notaries Public Act<sup>25</sup> and to answer questions arising under the Act. Specifically, the recodification is intended to:

- Recodify the rules to improve organization and readability.
- Revise the rules to be consistent with section 12-55-104 (2), C.R.S., by:
  - Removing erroneous statutory citations and references to journals; and
  - Clarifying that the Secretary of State provides document authentication numbers to notaries for electronic notarizations.
- Amend the rules to require vendors to maintain and, upon request, provide students' names and certain information.
- Harmonize enforcement provisions concerning vendors and course providers.
- Edit to repeal obsolete rules and to remove language that duplicates statute.
- Non-substantive revisions to simplify or clarify words and phrases and other technical revisions as is necessary for consistency with Department rulemaking format and style.

PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2014, the Secretary of State will post this document on the Department's website at: [http://www.sos.state.co.us/pubs/rule\\_making/agendas/2015CDOSRegAgenda.pdf](http://www.sos.state.co.us/pubs/rule_making/agendas/2015CDOSRegAgenda.pdf).

Additionally, the Secretary of State filed this agenda for publication in the November 10, 2014, Colorado Register.

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<sup>24</sup> Section 24-4-103(5), C.R.S. (2014).

<sup>25</sup> Article 55, Title 12 of the Colorado Revised Statutes.