

**STATE OF
COLORADO**
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2018 Departmental Regulatory Agenda
Office of the Secretary of State
November 1, 2017

To: The Staff of Legislative Council

Re: Colorado Department of State – 2018 Departmental Regulatory Agenda

The Colorado Secretary of State submits the following 2018 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.¹

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¹ Section 2-7-203(4), C.R.S.

DEPARTMENT REGULATORY AGENDA

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-2: Bingo and Raffles Games	<p>The Secretary of State does not anticipate rulemaking regarding the Rules Concerning Bingo and Raffles Games; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado bingo and raffles law¹ • 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 • Implement amendments to Colorado laws adopted during the Second Regular Session of the 71st 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. 			

¹ Article XVIII, Section 2 of the Colorado Constitution and Article 9, Title 12 of the Colorado Revised Statutes.

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Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-3: Rules Governing General Policies and Administration	<p>The Secretary may propose amendments to the Rules Governing General Policies and Administration as necessary to:</p> <ul style="list-style-type: none"> • 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 • Implement amendments to Colorado laws adopted during the Second Regular Session of the 71st 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. 	<p>24-4-105(11), C.R.S.</p> <p>Additional statutory and constitutional authority may depend on the subject matter of rulemaking.</p>	<p>TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.</p>	<ul style="list-style-type: none"> • Declaratory order petitioner • Parties to any agency adjudicatory proceeding • Additional persons or parties that may be affected depending on the subject matter of rulemaking
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	<p>The Secretary may propose amendments to the Rules Concerning Campaign and Political Finance as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of Colorado campaign finance law² • Address litigation concerns • Implement amendments to Colorado laws adopted during the Second Regular Sessions of the 71st 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. 	<p>Colo. Const. art. XXVIII, Sections 8, 9(1)(b); 1-1-107(2)(a), C.R.S.</p>	<p>This office estimates commencement of rulemaking in accordance with the State Administrative Procedure Act after the legislative session.</p>	<ul style="list-style-type: none"> • All Colorado residents and potential residents • Political subdivisions • Officeholders, candidates, and committees

² Article 45 of Title 1, C.R.S., and Article XXVIII of the Colorado Constitution.

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Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-7: UCC Filing Office Rules	<p>The Secretary of State does not anticipate rulemaking regarding the UCC Filing Office Rules; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of Colorado’s Uniform Commercial Code³ • 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 • Implement amendments to Colorado laws adopted during the Second Regular Session of the 71st 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. 			

³ Article 9 of Title 4, C.R.S.

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Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act	<p>The Secretary may propose amendments to the Rules for the Administration of the Colorado Charitable Solicitations Act⁴ as necessary to:</p> <ul style="list-style-type: none"> • Improve rule organization and readability • Define terms including “registrant” • Clarify requirements concerning registrants • Clarify rules concerning: notice of hearing and expedited APA deadlines • Update the fine for charitable organization's overdue report • Implement House Bill 17-1158 and amendments to Colorado laws adopted during the Second Regular Session of the 71st General Assembly • 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 • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S. 	<p>Sections 6-16-110.5(3), C.R.S.</p> <p>Additional statutory and constitutional authority may depend on the subject matter of rulemaking.</p>	<p>The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the second quarter of 2018.</p>	<ul style="list-style-type: none"> • Paid solicitors • Professional fundraising consultants • The general Colorado public
8 CCR 1505-10: Rules Concerning the Electronic Recording Technology Grant Program	<p>In 2015, the Secretary of State reviewed the Electronic Recording Technology Grant Program rules and determined that the rules are obsolete and inoperative. Additionally, Senate Bill 16-115 amendments to section 30-10-424, C.R.S., repealed the Secretary of State’s authority to promulgate rules necessary for the administration of section 30-10-421, C.R.S. 8 CCR 1505-10 will continue in its current form until the Electronic Recording Technology Board commences rulemaking.</p>			

⁴ Article 16 of Title 6, C.R.S.

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Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA)	<p>The Secretary may propose amendments to the Rules Concerning Public Records Pursuant to the Colorado Open Records Act (CORA) as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado Open Records Act⁵ • 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 • Implement amendments to Colorado laws adopted during the First and Second Regular Sessions of the 71st 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. 	<p>Section 24-72-203(1)(a), C.R.S.</p> <p>Additional statutory and constitutional authority may depend on the subject matter of rulemaking.</p>	<p>TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.</p>	<ul style="list-style-type: none"> • A person who requests information in accordance with the Colorado Open Records Act • Additional persons or parties that may be affected depending on the subject matter of rulemaking
8 CCR 1505-14: Rules Concerning Conflict of Interest Disclosures	<p>The Secretary may propose amendments to the Rules Concerning Conflict of Interest Disclosures as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement Colorado standards of conduct law⁶ • 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 • Implement amendments to Colorado laws adopted during the Second Regular Session of the 71st 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. 	<p>24-21-104, C.R.S. 24-21-111, C.R.S.</p> <p>Additional statutory and constitutional authority may depend on the subject matter of rulemaking.</p>	<p>TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.</p>	<ul style="list-style-type: none"> • Public officials and employees who voluntarily disclose potential conflicts of interest • Additional persons or parties that may be affected depending on the subject matter of rulemaking

⁵ Article 72 of Title 24, C.R.S.

⁶ Article 18 of Title 24, C.R.S.

MANDATORY RULE REVIEW & RELATED RULEMAKING AGENDA

Public notices and written comments received concerning the 2017 mandatory rule reviews are available on the Secretary of State’s website at: http://www.sos.state.co.us/pubs/rule_making/ruleReviews.html. The Secretary of State commenced or anticipates rulemaking in accordance with the mandatory rule review findings as follows:⁷

Rule number and title	Rule review results and summary of new or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-1: Elections Rules	<p>Considering the criteria outlined in section 24-4-103.3(1)(a-h), C.R.S., and comments received during the 3/10/17-4/7/17 rule review, the Secretary adopted rule recommendations as necessary or appropriate on 8/11/17 (CCR Tracking #2017-00221).</p> <p>The Secretary of State may commence additional 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 law⁸ concerning the following:</p> <ul style="list-style-type: none"> • Address litigation concerns • Updates necessary to further implement risk-limiting audits and open primary elections • Implement amendments to Colorado laws adopted during the First and Second Regular Sessions of the 71st General Assembly • Implement amendments to Colorado laws approved by the people of Colorado during the 2017 Coordinated Election • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 	<p>Section 1-1-107, C.R.S. Section 1-1.5-104, C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</p>	<p>This office estimates commencement of rulemaking in accordance with the State Administrative Procedure Act after the legislative session.</p>	<ul style="list-style-type: none"> • All current and potential Colorado residents • All Colorado counties • Political subdivisions • Voting system manufacturers • Officeholders, candidates, and committees • Voting system manufacturers • Poll watchers, election judges, and other interested parties • Petition proponents and circulators

⁷ Section 24-4-103.3(4), C.R.S.

⁸ 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.

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Rule number and title	Rule review results and summary of new or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-8: Rules Concerning Lobbyist Regulation	<p>Considering the criteria outlined in section 24-4-103.3(1)(a-h), C.R.S., the Secretary finds that the rules are necessary to implement the Regulation of Lobbyist laws (Title 24, Article 6, Part 3, C.R.S.) and may continue in their current form.</p> <p>The Secretary of State does not anticipate rulemaking regarding the rules concerning lobbyist regulation; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado laws regarding lobbyist regulation⁹ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 71st 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. 	Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.		

⁹ Part 3 of Article 6 of Title 24, C.R.S.

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Rule number and title	Rule review results and summary of new or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-11: Notary Program Rules	<p>The Colorado General Assembly repealed the Notaries Public Act (Title 12, Article 55) and replaced with the Revised Uniform Law on Notarial Acts (RULONA) (Title 24, Article 21, Part 6), which takes effect July 1, 2018.</p> <p>The Secretary will commence rulemaking to propose and consider amendments to the notary program rules as necessary to:</p> <ul style="list-style-type: none"> • Implement RULONA and any amendments to Colorado laws adopted during the second regular session of the 71st General Assembly • Correct statutory citations • Repeal unnecessary and obsolete rules • Simplify and clarify language • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 	<p>Current: sections 12-55-103.5(2) and 104(5), C.R.S.</p> <p>Effective 7/1/18: sections 24-21-522(2), 24-21-521(3)(c), and 24-21-527(1), C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</p>	<p>The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the second quarter of 2018.</p>	<ul style="list-style-type: none"> • Current and future notaries public • General public • Various business industries, including financial/banking and title and mortgage companies • Legal professionals

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2016

Rule number and title	CCR Tracking Number	Type	Adopted	Effective	Summary
8 CCR 1505-1: Elections	2016-00661	Temporary	12/19/2016	12/19/2017	Temporary Rule 24 was necessary given the close proximity to the December 19, 2016 meeting of the presidential electors. The Secretary of State adopted temporary rules to provide clear guidance regarding the presidential elector voting process and potential vacancy procedures.
8 CCR 1505-1: Elections	2017-00221	Permanent	8/11/2017	9/30/2017	The Secretary permanently adopted rule revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute; and ensure consistency with Department rulemaking standards.
8 CCR 1505-2: Bingo and Raffle Games	2017-00239	Temporary	6/14/2017	6/14/2017	Senate Bill 17-232 amended and relocated the Bingo and Raffles Law to Part 6, Article 21, Title 24 of the Colorado Revised Statutes. The Secretary of State adopted temporary rules to correct statutory citations and provide clear guidance to bingo-raffle stakeholders, including current licensees, prospective applicants, charitable game players, and the general public concerning requirements and procedures.
8 CCR 1505-2: Bingo and Raffle Games	2017-00240	Permanent	8/7/2017	9/30/2017	The Secretary permanently adopted amendments to the bingo and raffles games rules that were temporarily adopted on 6/14/17. The rule amendments are necessary to implement Senate Bill 17-232, which made technical and substantive changes to the Bingo and Raffles Law. The Secretary is also considering other amendments to the rules in order to improve the administration 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.
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	2017-00362	Temporary	8/10/2017	8/10/2017	The Secretary adopted rule amendments necessary to implement legislation recently passed by the Colorado General Assembly (HB 17-1155) and to provide clear guidance to interested parties, including, but not limited to: candidates, political parties, political organizations, and committees, given the close proximity of the November 2017 Coordinated Election
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	2017-00398	Permanent	10/25/17	Pending	The Secretary adopted amendments to the rules concerning campaign and political finance, including changes related to the temporary rules adopted on 8/10/17, to improve the administration and enforcement of Colorado campaign finance law. Specifically, the Secretary permanently adopted rule amendments necessary to ensure proper administration of House Bill 17-1155; establish uniformity in the administration of current law; eliminate obsolete provisions; remove rules stricken by the courts; remove references to repealed statutory provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure consistency with Department rulemaking standards.
8 CCR 1505-1: Elections	2017-00494	Permanent	Pending (11/17/2017 public hearing)	Pending	The Secretary is considering rule revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

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Rule number and title	CCR Tracking Number	Type	Adopted	Effective	Summary
8 CCR 1505-1: Elections	2017-00504	Temporary	10/20/2017	10/20/2017	Given the close proximity of the 2017 Coordinated Election, the Secretary of State must adopt temporary Rule 2.16.3 to provide clear guidance to county clerks regarding election systems security requirements. Please see the attached notice of temporary adoption, including a statement of basis and statement of justification.

PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2017, 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, 2017, Colorado Register.