



Notice of Proposed Permanent Rulemaking

Office of the Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8

March 15, 2018

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for **April 16, 2018 at 2:00 p.m.** in the Blue Spruce Conference Room on the 2nd floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290. The hearing will end when all interested parties have provided testimony or 4:00 p.m., whichever occurs first.

II. Subject

The Secretary is considering amendments and recodification of the rules concerning lobbyist regulation² to improve the administration and enforcement of Colorado laws regarding lobbyist regulation.³

The Secretary may consider additional rule amendments include revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; 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administration of current law; eliminate obsolete provisions; remove rules stricken by the courts; remove references to repealed statutory provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure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.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

¹ Section 24-4-103(3)(a), C.R.S. (2017).

² 8 CCR 1505-8.

³ Part 3 of Article 6 of Title 24, C.R.S. (2017).

III. Rulemaking authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory provisions:

- Section 24-6-305(2)(b), C.R.S., (2017), which 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).

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State's rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2018/LobbyRulesHearing20180416.html

You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by April 11, 2018.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office any time before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website at: www.sos.state.co.us/pubs/rule_making/hearings/2018/LobbyRulesHearing20180416.html. We will redact contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor.

⁴ Section 24-4-103(3)(a), C.R.S. (2017). "Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on “archived recordings” to access an audio recording of the hearing.

VII. Office contact

If you have any questions or would like to submit written comments, please contact Andrea Gyger with the Administration Division at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 15th Day of March, 2018.



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8

March 15, 2018

I. Basis and Purpose

This statement explains the recodification of the Colorado Secretary of State rules concerning lobbyist regulation.¹ The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding lobbyist regulation² as follows:

- New Rule 1 concerns definitions:
 - In accordance with section 24-6-301(1), C.R.S., New Rule 1.1 clarifies that “client” includes a person or entity who initially hires, engages, or otherwise pays or contributes money to a professional lobbyist.
 - New Rule 1.2 defines “covered official”
 - New Rule 1.3 outlines what constitutes “lobbying,” as provided in section 24-6-301(3.5), C.R.S. The rule further clarifies that lobbying does not include communications made by an attorney at law on behalf of a client, and that this exemption only applies to an attorney who is representing his or her client’s legal rights before a tribunal or adjudicative body that contains covered officials; the exemption does not extend to an attorney who is merely lobbying on behalf of a client. The rule also clarifies that the exclusion from lobbying covers “grassroots” lobbying.
 - New Rule 1.4 defines “lobbying firm.”
 - New Rule 1.5 defines “monitoring.”
 - New Rule 1.6 defines “professional lobbyist,” as provided in section 24-6-301(6), C.R.S., and further clarifies that the term includes a person, business entity, including a sole proprietorship, or an employee of a client, who is compensated by a lobbying firm for lobbying services.
 - Current Rules 2.1.2 and 2.1.3, which define “rate” and “standard” are renumbered as Rules 1.7 and 1.8.

¹ 8 CCR 1505-8.

² Part 3 of Article 6 of Title 24, C.R.S. (2017).

- Current Rule 1.1, which defines “state liaison,” is amended (a citation is converted to a footnote) and renumbered as Rule 1.9.
- New Rule 1.10 defines “volunteer lobbyist”
- Current Rule 2.1, concerning a rule making official is repealed.
- New Rule 2 outlines and clarifies professional lobbyist registration and disclosure requirements.
- Current Rules 2.3 and 3.3, concerning state liaison registration statements and lobbying by state officials and employees, are repealed. Previous clarification repeated statute or is no longer considered necessary.
- Current Rules 3.1, 3.2.1, and 3.2.2 are repealed.
- New Rule 3 concerns lobbyist firms concerning registration and disclosure requirements.
- Amendments to Current Rule 5, concerning complaints and enforcement, including technical edits and renumbering as Rule 4.
- New Rule 5 (formerly Rule 4), clarifies the electronic filing hardship exemption. The electronic filing requirement (described in current Rule 4.1.1) is retained by integration into new rules.
- Current Rule 6, concerning collections, is repealed.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On February 23, 2018, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/lobbyRuleComments.html and are incorporated into the official rulemaking record.

II. Rulemaking Authority

- Section 24-6-303(6.3)(a), C.R.S., (2017), which authorizes the Secretary of State to promulgate rules concerning electronic filing of required reports including information that the reports must contain.
- Section 24-6-305(2)(b), C.R.S., (2017), which 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).