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2021 Departmental Regulatory Agenda
Office of the Secretary of State
October 28, 2020

To: The Staff of Legislative Council

Re: Colorado Department of State – 2021 Departmental Regulatory Agenda

The Colorado Secretary of State submits the following 2021 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.¹

Contents:

DEPARTMENT REGULATORY AGENDA.....	2
SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2019	9
PUBLICATION AND AVAILABILITY TO THE PUBLIC	13

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 1505-1: Elections	<p>The Secretary of State may commence rulemaking to consider amendments to the Election Rules necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado elections law¹ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd General Assembly • Respond to comments from the Office of Legislative Legal Services • 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(2)(a), C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</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>	<p>Positively affect:</p> <ul style="list-style-type: none"> • Current and potential Colorado residents • Colorado County Clerks and Recorders • Candidates for office in Colorado • Poll watchers, election judges, and other interested parties involved in the election administration process • Political parties in Colorado • Petition proponents and circulators • Voting system and other third-party vendors of election equipment

¹ 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.

2020 Departmental 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 anticipates proposed rulemaking regarding the Rules Concerning Bingo and Raffles Games as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of Colorado bingo and raffles law² • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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>Potential proposed amendments include:</p> <ul style="list-style-type: none"> • Amend Rule 3.1.5 to address situations where a licensee's bingo caller fails to hear a bingo player call bingo • Amend Rule 5.4 to permit licensees to operate more than one progressive pull tab game simultaneously • Amend 5.4.3 to authorize the suspension of progressive pull tabs games during the playing of parimutuel games • Amend Rule 5.4.10 to revise the number of days a licensee must display flares and jackpot cards if a jackpot prize is not immediately claimed by the winner of a progressive pull tab game • Amend Rule 8 to specify what licensees must submit to the Secretary of State to receive approval when selling and advertising raffle tickets online • Amend Rule 8.4 to authorize progressive raffle playing card boards • Amend Rule 15.6.3 to remove outdated language regarding Central Collections 	<p>Sections 24-21-605(1)(b), 24-21-617(5), and 24-21-620(2)(f)(I), 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 in August 2021</p>	<p>Positively affect:</p> <ul style="list-style-type: none"> • Bingo-affle licensees • Colorado Secretary of State • Gaming equipment manufacturer and supplier licensees • Bingo hall landlord licensees

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

2020 Departmental 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 1505-3: Rules Governing General Policies and Administration	<p>The Secretary does not anticipate rulemaking regarding the Rules Governing General Policies and Administration; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado State Administrative Procedure Act³ and State Emblems and Symbols laws⁴ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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. 			
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 and to answer questions arising under Colorado campaign finance law⁵ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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 45-111.5(1), C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</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>	<p>Positively affect:</p> <ul style="list-style-type: none"> • Current and potential Colorado residents • Colorado County Clerks and Recorders • Political subdivisions • Officeholders • Candidates for office in Colorado • Party organizations in Colorado • Candidate or issue organizations and committees in Colorado

³ Article 4 of Title 24, C.R.S.

⁴ Article 80, Part 9, of Title 24, C.R.S.

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

2020 Departmental 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 1505-7: 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 Code⁶ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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. 			
8 CCR 1505-8: Rules Concerning Lobbyist Regulation	<p>The Secretary of State may propose amendments to the Rules Concerning Lobbyist Regulation necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado laws regarding lobbyist regulation⁷ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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 24-6-305(2)(b), C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</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>	<p>Positively affect:</p> <ul style="list-style-type: none"> • Current and potential Colorado residents • Lobbyist and lobbying firms • Colorado legislators and other elected officials • Rulemaking bodies

⁶ Article 9 of Title 4, C.R.S.

⁷ Part 3 of Article 6 of Title 24, C.R.S.

2020 Departmental 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
<p>8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act</p>	<p>The Secretary anticipates proposed rulemaking regarding the Rules for the Administration of the Colorado Charitable Solicitations Act⁸ as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under the Colorado Charitable Solicitations Act • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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>Potential proposed amendments include:</p> <ul style="list-style-type: none"> • Amend Rule 1 to: <ul style="list-style-type: none"> ○ Clarify the meaning of "registered" for purposes of implementing section 39-22-5103, C.R.S. ○ Define "not directly solicit for a charitable contribution" in section 6-16-103(7)(h), C.R.S. This clarification is needed because of the definition of "solicit" in section 6-16-103(10), C.R.S. • Amend Rule 4 to include circumstances under which an entity must file an exemption from registration as a charity • Amend Rule 4.3 to specify the requirements for alternatives to the surety bonds required for paid solicitors by section 6-16-104.6(3.5)(a), C.R.S., that satisfy section 11-35-301, C.R.S. • Amend Rule 6.4.5 to remove the reference to Colorado's "Central Collection Agency" as unnecessary • Amend Rule 6.1.1 to clarify charitable organization fines in response to questions from the Office of Legislative Legal Services 	<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>This office estimates commencement of rulemaking in accordance with the State Administrative Procedure Act in May 2021</p>	<p>Positively affect:</p> <ul style="list-style-type: none"> • Charitable organizations • Paid solicitors • Colorado citizens making charitable contributions

⁸ Article 16 of Title 6, C.R.S.

2020 Departmental 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 1505-10: Rules Concerning the Electronic Recording Technology Grant Program	<p>The Secretary of State anticipates proposed rulemaking to repeal the rules and reserve the code for any future Electronic Recording Technology (ERT) Board rulemaking.</p> <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.</p>		This office estimates commencement of rulemaking in accordance with the State Administrative Procedure Act post-legislative session	None
8 CCR 1505-11: Notary Program Rules	<p>The Secretary of State does not anticipate rulemaking regarding the Notary Program Rules, however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado Revised Uniform Law on Notarial Acts (RULONA)⁹ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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. 			
8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA)	<p>The Secretary does not anticipate rulemaking regarding the Rules Concerning Public Records Pursuant to the Colorado Open Records Act (CORA); however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado Open Records Act¹⁰ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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. 			

⁹ Article 21 of Title 24, Part 5, C.R.S.

¹⁰ Article 72 of Title 24, C.R.S.

2020 Departmental 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 1505-14: Rules Concerning Conflict of Interest Disclosures	<p>The Secretary does not anticipate rulemaking regarding the Rules Concerning Conflict of Interest Disclosures; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement Colorado standards of conduct law¹¹ • Implement amendments to Colorado laws adopted during the First Regular Session of the 73rd 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. 			

¹¹ Article 18 of Title 24, C.R.S.

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2019

Rule Number & Title	CCR Tracking Number	Type	Adopted	Effective	Summary
8 CCR 1505-1: Elections	2020-00057	Temporary	2/3/2020	2/3/2020	The Secretary adopted rule revisions necessary to address specific issues identified during the 2019 coordinated election that needed to be addressed prior to the Primary Election; ensure the proper administration of elections and risk-limiting audits statewide; HB 19-1278 and mail ballot elections statewide; and logic and accuracy testing; and ensured that the rights of tribal nations under Colorado law are protected for the upcoming general election.
	2020-00330	Temporary	5/8/2020	5/8/2020	<p>The Secretary issued a notice of proposed permanent rulemaking on 2/14/2020; however, the Secretary terminated the rulemaking and the associated hearing due to the COVID-19 public health emergency. The Secretary amended in part and re-adoption of the 2/3/2020 temporary rules as necessary to allow the Secretary time to issue a new notice of permanent rulemaking to consider and adopt rules on a permanent basis before any temporary rules expire.</p> <p>The Secretary also adopted additional rules concerning definitions and rules for conducting elections during a public health emergency. On 3/10/2020, the Colorado Governor declared a disaster emergency due to the COVID-19 contagion. On 3/16/2020 and 3/18/2020, the Colorado Governor issued Executive Orders D 2020 005, D 2020 008, and D 2020 036 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption. Accordingly, New Rule 27 provided necessary guidance for conducting elections during a public health emergency. On 4/30/2020, the Colorado Governor issued Executive Order D 2020 053 directing the Secretary of State to promulgate emergency rules establishing a time period for unaffiliated and independent candidates to circulate petitions to appear on the 2020 general election ballot. Accordingly, new Rule 27.9 set those dates.</p>

2020 Departmental Regulatory Agenda

2020-00354	Permanent	7/8/2020	8/30/2020	The Secretary permanently adopted specific temporary rules, adopted on 5/8/2020 (under CCR tracking #2020-00330). The Secretary adopted rule revisions necessary to ensure the proper administration of elections and risk-limiting audits statewide; certify elections equipment; ensure proper administration of HB 19-1278 and mail ballot elections statewide; ensure proper administration of logic and accuracy testing; ensure proper issuance of provisional ballots; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. Please see the following website for more details related to this rulemaking: https://www.sos.state.co.us/pubs/rule_making/hearings/2020/ElectionsRulesHearing20200615.html
2020-00372	Temporary	5/28/2020	5/28/2020	Upon further consideration of Coronavirus Aid, Relief, and Economic Security Act (CARES) supplemental funding restrictions, the Secretary adopted amendments to temporary Rule 27.4.3, concerning protecting the health of election judges, staff, and voters during a public health emergency. Specifically, the amendments repealed inclusion of county staff members and established that county clerks must allow election judges to stay home if they have any COVID-19 related symptoms, concerns, illness or are quarantined without losing pay.
2020-00394	Temporary	5/30/2020	5/30/2020	The Secretary adopted Rule 15.9 concerning circulation of petitions via mail or email. On 5/15/2020 Colorado Governor issued Executive Orders D 2020 064 and D 2020 065 authorizing the Secretary of State to establish temporary rules for registered electors to receive and return candidate and issue petitions over mail and email due to the presence of COVID-19.
2020-00478	Temporary	7/15/2020	7/15/2020	On July 1, 2020, the Colorado Supreme Court determined that several provisions of Executive Order D 2020 065 were unconstitutional. As a result, on July 10, 2020, the Colorado Governor issued Executive Order D 2020 128 repealing most of Executive Order D 2020 065. Accordingly, the Secretary amended temporary Rule 15.9 concerning circulation of petitions via mail or email.
2020-00684	Temporary	9/4/2020	9/4/2020	The Secretary adopted new Rule 25.2.7 concerning post-election audit and amended Rule 27 regarding conducting elections during public health emergency. New Rule 25.2.7 is necessary to ensure all post-election activities can be completed timely and in accordance with state law. Due to the Veteran's Day holiday, which falls on the 8th day after election day this November, many post-election deadlines are pushed back a day. These new deadlines conflict with the current deadlines found in election Rule 25, governing the post-election risk-limiting audit. To resolve this conflict, it was necessary to alter the risk-limiting audit deadlines for the upcoming General Election only. Amendments to Rule 27 are necessary to provide clarity and further details as more public health information and best practices have become available. Rules 27.8 and 27.9 are repealed as the events that these rules govern have now passed.

2020 Departmental Regulatory Agenda

8 CCR 1505-6: Rules Concerning Campaign and Political Finance	2020-00429	Permanent	8/10/2020	9/30/2020	The Secretary adopted amendments necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly, including SB19-232 concerning campaign finance enforcement; establish uniformity in the administration of current law; establish new definitions; clarify date of a contribution or donation; when a committee may file a termination report to terminate the committee; rules concerning recall elections, local offices and home rule; late filing penalties and waiver process; establish new complaint rules including rules for settlement of complaints; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure consistency with Department rulemaking standards. Please see the following website for more details related to this rulemaking: https://www.sos.state.co.us/pubs/rule_making/hearings/2020/CampaignFinanceRulesHearing20200716.html
	2020-00560	Temporary	8/10/2020	8/10/2020	The Secretary permanently adopted amendments and recodification of the rules under CCR Tracking #2020-00429 and simultaneously adopted on a temporary basis to ensure the uniform and proper administration and enforcement of Colorado campaign and political finance laws during the 2020 election cycle.
8 CCR 1505-8: Rules Concerning Lobbyist Regulation	2019-00618	Permanent	12/13/2019	1/30/2020	The Secretary permanently adopted amendments and recodification of the rules to improve the administration and enforcement of Colorado laws regarding lobbyist regulation. Specifically, the Secretary adopted rule revisions necessary to ensure proper administration of additional legislation recently passed by the Colorado General Assembly, specifically HB 19-1248; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure consistency with Department rulemaking standards. Please see the following website for more details related to this rulemaking: https://www.sos.state.co.us/pubs/rule_making/hearings/2019/LobbyistRulesHearing20191115.html
	2019-00744	Temporary	12/13/2019	1/1/2020	The Secretary of State permanently adopted amendments and recodification of the rules under CCR Tracking #2019-00618 and simultaneously adopted on a temporary basis to ensure that the rules were effective on 1/1/2020 in accordance with HB 19-1248.

2020 Departmental Regulatory Agenda

8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act	2020-00202	Temporary	4/2/2020	4/2/2020	The Secretary adopted New Rule 5.7. The rule established that all registrant reports and filings that were due to the Secretary of State between 4/1/2020 and 7/15/2020 were due by 8/15/2020. Due to the COVID-19 pandemic and widespread impacts of the State of Emergency in Colorado, charitable organizations, paid solicitors, and professional fundraising consultants (collectively “registrants”) could have difficulty filing required reports due under the Colorado Charitable Solicitations Act (CCSA). It could be difficult for registrants and other stakeholders (firms and accountants who prepare reports on registrants’ behalf) to comply with the CCSA and related filing deadline rules in a timely way, which would jeopardize their ability to raise funds in Colorado.
	2020-00479	Temporary	7/15/2020	7/15/2020	The Secretary readopted New Rule 5.7 to ensure that the rule is effective through the 8/15/2020 report filing deadline
8 CCR 1505-11: Notary Program Rules	2020-00167	Temporary	3/30/2020	3/30/2020	On 3/10/2020, the Colorado Governor declared a disaster emergency due to the COVID-19 contagion. On 3/28/2020, the Colorado Governor issued Executive Order D 2020 019, suspending the requirement for personal appearance before a notary officer as set forth in Section 24-21-506, C.R.S. Accordingly, the Colorado Secretary of State adopted New Rule 5 concerning Remote Notarization. Adoption of these rules on a temporary basis was necessary to authorize and establish minimum standards for remote notarizations, while the personal appearance requirement of RULONA is temporarily suspended due to health and safety precautions.
	2020-00446	Temporary	6/26/2020	6/26/2020	Executive Order D 2020 087, which extended Executive Orders D 2020 019, 030, and 047, was set to expire on 6/28/2020. On 6/26/2020, the Colorado Governor signed Senate Bill 20-096 concerning an authorization for notaries public to perform notarial acts using audio-video communication. In accordance with new statutory authority, the Secretary readopted Rule 5 on a temporary basis as is necessary to authorize and establish minimum standards for remote notarizations.
	2020-00816	Temporary	10/15/2020	10/15/2020	The Secretary of State readopted temporary Rule 5 to continue the rules until permanent rules are established.

2020 Departmental Regulatory Agenda

	2020-00819	Permanent	Pending	Pending	<p>Notice of rulemaking issued on 10/15/2020. The Secretary is considering amendments to the Colorado Secretary of State Notary Program Rules in order to ensure the uniform and proper administration, implementation, and enforcement of the Revised Uniform Law on Notarial Acts (RULONA) and legislation recently passed by the Colorado General Assembly; Senate Bill 20-096 concerning remote notarization. The Secretary may consider additional rule amendments including revisions necessary to eliminate obsolete provisions; 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. Webinar public hearing scheduled for 11/16/2020. Please see the following website for more details related to this rulemaking:</p> <p>https://www.sos.state.co.us/pubs/rule_making/hearings/2020/NotaryRulesHearing20201116.html</p>
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PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2020, 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 and <https://www.sos.state.co.us/pubs/newsRoom/SMART-Act/index.html>. Additionally, the Secretary of State filed this agenda for publication in the November 10, 2020, Colorado Register.