



Notice of Proposed Rulemaking

Office of the Secretary of State
Notary Program Rules
8 CCR 1505-11

Date of notice: October 15, 2020

Date and time of public hearing: November 16, 2020 at 9:00 a.m.

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 November 16, 2020 at 9:00 a.m. **This meeting will be conducted via webinar; no in-person option is available.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Secretary is considering amendments to the Colorado Secretary of State Notary Program Rules² in order to ensure the uniform and proper administration, implementation, and enforcement of the Revised Uniform Law on Notarial Acts (RULONA)³ 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additional rule amendments including revisions necessary to eliminate obsolete provisions; remove references to repealed statutory provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure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. The Secretary may consider additional rule amendments.

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

III. Statutory authority

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

¹ Section 24-4-103(3)(a), C.R.S. (2020).

² 8 CCR 1505-11.

³ Article 21 of Title 24, Part 5, C.R.S. (2020).

- Section 24-21-527(1)(a), C.R.S., (2020), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts regarding tangible and electronic records[.]”
- Section 24-21-527(1)(c), C.R.S., (2020), which authorizes the Secretary of State to “[i]nclude provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures[.]”
- Section 24-21-527(1)(e), C.R.S., (2020), which authorizes the Secretary of State to “[i]nclude provisions to prevent fraud or mistake in the performance of notarial acts[.]”
- Section 24-21-527(1)(g), C.R.S., (2020), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts using audio-video communication technology, including provisions to ensure the security, integrity, and accessibility of records relating to those acts[.]”
- Section 24-21-527(1)(h), C.R.S., (2020), which authorizes the Secretary of State to “[p]rescribe requirements for the approval and use of remote notarization systems and storage systems.”

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/2020/NotaryRulesHearing20201116.html.

You may also contact our office to request an 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 November 11, 2020.

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. You may submit written comments to SoS.Rulemaking@sos.state.co.us any time before and during the hearing. Additional opportunity to comment in writing will be announced at the conclusion of the hearing. Information regarding how to testify during the webinar hearing is providing in section VI of this notice.

⁴ Section 24-4-103(3)(a), C.R.S. (2020). “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.”

As soon as possible after receipt, written comments will be posted online at the Secretary of State website:

www.sos.state.co.us/pubs/rule_making/hearings/2020/NotaryRulesHearing20201116.html.

We will redact apparent personal contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor. All written comments will be added to the official rulemaking record.

VI. Webinar and audio recording of hearing

Register for the webinar hearing

To join and listen to the hearing, you must register for the webinar online: <https://attendee.gotowebinar.com/register/1572827603488500751>.

When you register, you must provide your full name and email address. Please provide additional contact information including your address and telephone number. You may also provide your job title and organization. Lastly, indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

Webinar hearing procedures

At the beginning of the webinar, we will mute all public participants. After the introduction and a brief summary of the rulemaking, we will open the hearing to testimony as follows:

- Referencing registration records, we will identify and individually unmute participants who indicated that they plan to testify during the hearing.
- When we exhaust the list, we will ask whether any additional attendees wish to testify. Attendees may raise/lower their hand by clicking the icon in their control panel.
- To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Before the hearing concludes, we will announce an additional opportunity to submit written comments and the associated deadline.

Webinar audio requirements

Please be advised: we strongly encourage attendees to join the webinar through their computer even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset. As outlined above, we will first receive testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand. If you access the webinar only by telephone, you may not appear in our webinar attendee list meaning we may not be able to unmute you. Moreover, the raise your hand feature is only available to attendees who access the webinar by computer.

Audio recording

After the hearing concludes, a recording will be available on our audio broadcasts page here: https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

VII. Office contact

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

Dated this 15th Day of October, 2020.

Ian Rayder
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Notary Program Rules 8 CCR 1505-11

October 15, 2020

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Notary Program Rules. The purpose of the changes is to ensure the uniform and proper administration, implementation, and enforcement of the Colorado Revised Uniform Law On Notarial Acts (RULONA)¹ and to answer questions arising under the Act. Specifically, the changes include:

- New Rule 2.1.1 clarifies that a notary commission applicant must provide their legal name on applications and renewals.
- Amendments to Rules 3.3.2 and 3.3.3 establish that a certificate of successful completion of an approved course of instruction expires 90 days from the date of issuance.
- Recodification and permanent adoption of New Rule 5 concerning remote notarization to implement Senate Bill 20-096.
 - Proposed New Rule 5.3.1 concerns Provider Protocols that are incorporated by reference. A working draft of the Provider Protocols is posted online at https://www.sos.state.co.us/pubs/rule_making/hearings/2020/NotaryRulesHearing20201116.html. We invite review and comment on the Provider Protocols in addition to the preliminary draft notary rules.

II. Rulemaking Authority

The statutory authority is as follows:

- Section 24-21-527(1)(a), C.R.S., (2020), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts regarding tangible and electronic records[.]”

¹ Article 21, Title 24 of the Colorado Revised Statutes.

- Section 24-21-527(1)(c), C.R.S., (2020), which authorizes the Secretary of State to “[i]nclude provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures[.]”
- Section 24-21-527(1)(e), C.R.S., (2020), which authorizes the Secretary of State to “[i]nclude provisions to prevent fraud or mistake in the performance of notarial acts[.]”
- Section 24-21-527(1)(g), C.R.S., (2020), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts using audio-video communication technology, including provisions to ensure the security, integrity, and accessibility of records relating to those acts[.]”
- Section 24-21-527(1)(h), C.R.S., (2020), which authorizes the Secretary of State to “[p]rescribe requirements for the approval and use of remote notarization systems and storage systems.”