

DEPARTMENT OF STATE

8 CCR 1505-12

PUBLIC RECORDS REQUESTED PURSUANT TO THE COLORADO OPEN RECORDS ACT

Secretary of State

Draft 1 – September 7, 2006

Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rule-making hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rule-making is filed with the Secretary of State.

A final copy of the proposed rule changes will be available to the public on November 1, 2006 and a copy will be posted on the Secretary of State's website, in compliance with the requirements of section 24-4-103(4)(a), C.R.S., that "Any proposed rule or revised proposed rule by an agency with is to be considered at a public hearing...shall be made available to any person at least five days prior to the hearing."

This document shows and explains the substantive changes proposed for consideration at the Rulemaking Hearing on November 9, 2006.

Proposed additions to the current rules are reflected in SMALL CAPS. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations are included.

Rule 1. Authority and Applicability

1. These rules are adopted pursuant to section 24-72-203 (1), C.R.S., for the protection of records in the custody of the Secretary of State and for the prevention of unnecessary interference with the regular discharge of the duties of the Secretary of State's Office.
2. These rules apply to applications submitted to the Secretary of State for the inspection of public records pursuant to the Colorado Open Records Act, (CORA), § 24-72-201, *et seq.*, C.R.S., as amended.

Rule 2. Submission of Applications

1. Applications must be submitted in writing to the Secretary of State's office and must be specific as to the information required.
2. Applications may be submitted by mail, fax, e-mail, or hand-delivery.
3. Responses to applications will be coordinated by the Secretary of State's Public Information Officer or his or her designee.

Rule 3. Inspection

1. Public records shall be made available for inspection during regular business hours, which for purposes of these rules shall be deemed to be from 8:30 a.m. to 4:30 p.m., Monday through Friday, except for times the office is closed.

2. If a public record is not immediately or readily available for inspection, the Public Information Officer or designee shall make an appointment or other arrangements with the applicant concerning the time at which the requested record will be available.
3. Public records shall be made available for inspection in as timely a manner as possible. However, responding to applications for inspection of public records shall not take priority over the previously scheduled work activities of the Secretary of State's Office.
4. A public record shall not be removed from the Secretary of State's offices. Records may be removed from file folders or places of storage for photocopying by the Public Information Officer or designee.
5. In accordance with section 24-21-111, C.R.S., for any record accessible to the public on the Secretary of State's web site, the Secretary of State may make such access the sole means of inspection of the record.
6. ~~The Secretary of State's office shall deny the inspection of the records if such inspection would be contrary to federal or state law or regulation, would violate a court order, or would cause substantial injury to the public interest. REPEALED.~~

Rule 4. Fees

1. Photocopies, printouts, and other reproductions of records shall be provided at the standard fee charged by the Secretary of State for photocopies, printouts, and other reproductions.
2. If a public record is requested in an electronic format or is a result of computer output other than word processing, the Secretary of State may charge an additional fee based on recovery of the actual incremental costs of providing the electronic services and products, including any programming costs, together with a reasonable portion of the costs associated with building and maintaining the information system.
3. In the case of any request requiring more than one hour of staff time for search and retrieval or for supervision of inspection or copying, the Secretary of State may charge a reasonable hourly fee for such staff time based on the estimated average salary and benefits paid by the Secretary of State for the staff involved.
4. In accordance with section 24-21-104 (1), C.R.S., applicable fees shall be paid by the applicant prior to inspection of any public records and prior to receipt of or copies of any public records. Prior to performing any services necessary to respond to the application, the Secretary of State may require the applicant to pay a deposit equal to estimated fees that will be charged by the Secretary of State.