

STATE OF COLORADO

Department of State

1700 Broadway
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Mike Coffman

Secretary of State

J. Wayne Munster

Acting Director, Elections Division

NOTICE OF PROPOSED RULEMAKING

**Office of the Secretary of State
Rules Concerning Conflict of Interest Disclosures
8 CCR 1505-14**

September 29, 2008

Pursuant to the requirements of section 24-4-103(3)(a), C.R.S. (2008), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **October 30, 2008 from 9:00 a.m. to 12:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of proposed rules of the Colorado Secretary of State concerning Conflict of Interest Disclosures, 8 CCR 1505-14.

Subject of the Proposed Rulemaking

The Secretary of State will consider proposed new rules as may be necessary or appropriate to improve the administration of the standards of conduct laws regarding voluntary disclosure of conflicts of interest in accordance with section 24-18-110, C.R.S. (2008). The proposed new rules to be considered include rules concerning mandatory electronic filing and fees for filing voluntary disclosures.

Authority for Proposed Rulemaking

New rules of the Colorado Secretary of State concerning Conflict of Interest Disclosures, 8 CCR 1505-14, are proposed pursuant to the following statutes:

1. Section 24-18-110, C.R.S., which allows public officials and employees to voluntarily disclose potential conflicts of interest in writing to the Secretary of State, and section 24-18-111 (1) (c), C.R.S. (2008), which authorizes the Secretary of State to "Make rules for the conduct of his affairs under" sections 24-18-101 through 24-18-113, C.R.S.
2. Section 24-21-104, C.R.S. (2008), which requires the Secretary of State "to charge fees...for filing...papers officially executed and other official work that may be done in the secretary of state's office."
3. Section 24-21-111, C.R.S. (2008), which authorizes the Secretary of State to: "require any filing to be made by electronic means as determined by the secretary of state."

Copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 270, Denver, Colorado, 80290, or by calling (303) 894-2200, extension 6329. The proposed rules are also posted on the Secretary of State website at www.sos.state.co.us.

A final copy of the proposed rules for consideration at the public rulemaking hearing will be posted on the Secretary of State website and made available to the public no later than October 24, 2008 in accordance with section 24-4-103(4)(a), C.R.S. (2008), which states that “[a]ny 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.”

The rulemaking hearing on October 30, 2008 will be held in accordance with section 24-4-103, C.R.S. (2008). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at the hearing or before the commencement of the hearing on October 30 at 9:00 a.m. in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at www.sos.state.co.us on the “Information Center” page under “Broadcast and Recorded Meetings.” For additional information, please contact Andrea Gyger, Elections Division at andrea.gyger@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 29th Day of September, 2008.



William A. Hobbs
Deputy Secretary of State

For

Mike Coffman
Colorado Secretary of State



Proposed Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State Rules Concerning Conflict of Interest Disclosures

September 29, 2008

1. Basis and Purpose

This statement pertains to the proposed new Colorado Secretary of State Rules Concerning Conflict of Interest Disclosures as necessary to improve the administration of standards of conduct laws regarding voluntary disclosure in accordance with section 24-18-110, C.R.S. (2008).

The adoption of new rules concerning voluntary disclosure of conflicts of interest is necessary as follows:

- New rule 1 is necessary to require mandatory electronic filing of all voluntary disclosures.
- New Rule 2 is necessary to establish fees for filing voluntary disclosures. Fees are intended to offset the costs of developing and maintaining an electronic filing system and the costs of carrying out other duties of the Secretary of State's Office relating to the filing of voluntary disclosures.

The Secretary of State therefore finds that in order to ensure the uniform and proper administration and enforcement of the standards of conduct laws, the permanent adoption of the new rules is necessary both to comply with law and to preserve the public welfare generally.

2. Statutory Authority

New rules of the Colorado Secretary of State concerning Conflict of Interest Disclosure, 8 CCR 1505-14, are proposed pursuant to the following statutes:

1. Section 24-18-110, C.R.S., which allows public officials and employees to voluntarily disclose potential conflicts of interest in writing to the Secretary of State, and section 24-18-111 (1) (c), C.R.S. (2008), which authorizes the Secretary of State to "Make rules for the conduct of his affairs under" sections 24-18-101 through 24-18-113, C.R.S.

2. Section 24-21-104, C.R.S. (2008), which requires the Secretary of State “to charge fees...for filing...papers officially executed and other official work that may be done in the secretary of state’s office.”
3. Section 24-21-111, C.R.S. (2008), which authorizes the Secretary of State to: “require any filing to be made by electronic means as determined by the secretary of state.”

COLORADO SECRETARY OF STATE

8 CCR 1505-14

RULES CONCERNING CONFLICT OF INTEREST DISCLOSURES

Preliminary Draft of Proposed Rules

September 29, 2008

Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking 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 rulemaking is filed with the Secretary of State.

A final copy of the proposed rule changes will be available to the public no later than October 24, 2008, and a copy will be posted on the Department of State's web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that "[a]ny 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."

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

1 New Rule 1 would be adopted as follows:

2 **RULE 1. ELECTRONIC FILING**

3 1.1 BEGINNING JANUARY 1, 2009, ALL DISCLOSURES FILED WITH THE SECRETARY OF
4 STATE PURSUANT TO SECTION 24-18-110, C.R.S., SHALL BE FILED
5 ELECTRONICALLY. DISCLOSURES PRESENTED FOR MANUAL FILING SHALL NOT BE
6 ACCEPTED.

7 1.2 IN ACCORDANCE WITH SECTION 24-21-111, C.R.S., REPORTS ARE NOT REQUIRED TO
8 BE FILED ELECTRONICALLY IF THE SECRETARY OF STATE HAS GRANTED AN
9 EXCEPTION TO THE ELECTRONIC FILING REQUIREMENT AFTER WRITTEN
10 APPLICATION BASED ON HARDSHIP OR OTHER GOOD CAUSE SHOWN. ALL
11 APPLICATIONS FOR AN EXCEPTION SHALL INCLUDE A BRIEF STATEMENT OF THE
12 HARDSHIP OR GOOD CAUSE FOR WHICH THE EXCEPTION IS SOUGHT. APPLICATIONS
13 MUST BE RECEIVED BY THE SECRETARY OF STATE AT LEAST FIFTEEN (15)

1 CALENDAR DAYS PRIOR TO FILING THE FIRST DISCLOSURE UNLESS THE EXCEPTION IS
2 BASED ON EMERGENCY CIRCUMSTANCES, IN WHICH CASE THE NATURE OF THE
3 EMERGENCY SHALL BE DESCRIBED IN THE APPLICATION. THE SECRETARY OF STATE
4 SHALL REVIEW AND RESPOND IN WRITING TO ALL APPLICATIONS FOR AN EXCEPTION
5 WITHIN THREE (3) BUSINESS DAYS.

6 1.3 FOR THE PURPOSES OF THIS RULE, "ELECTRONIC FILING" IS DEFINED AS THE FILING
7 OF DISCLOSURES PURSUANT TO SECTION 24-18-110, C.R.S., UTILIZING THE
8 INTERNET SYSTEM CREATED AND MAINTAINED BY THE SECRETARY OF STATE FOR
9 SUCH PURPOSE. SUBMISSION OF DISCLOSURES BY FACSIMILE OR EMAIL SHALL NOT
10 BE CONSIDERED "ELECTRONIC FILING."

11 New rule 2 would be adopted as follows:

12 **RULE 2. FEES**

13 2.1 IN ACCORDANCE WITH SECTION 24-21-104 (3)(B), C.R.S., BEGINNING JANUARY 1,
14 2009, THE FEE FOR FILING A DISCLOSURE SHALL BE FIVE DOLLARS (\$5.00). FEES
15 SHALL BE PAID AT THE TIME OF FILING SUCH DISCLOSURE AND SHALL BE SUBMITTED
16 UTILIZING THE ELECTRONIC FILING SYSTEM MAINTAINED BY THE SECRETARY OF
17 STATE.