



Notice of Public Meeting

Discussion of Election Rules: proposed New Rule 52 concerning verification and hearing process for individuals identified as non-citizens

I. Date, time, and location of meeting

The Secretary of State will host a public meeting on **August 29, 2012 from 1:00 p.m. to 5:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Meeting subject matter and purpose

The Secretary is considering emergency adoption of hearing procedures.

Please note that this notice of public meeting and the attached draft proposed rules are not released as part of formal hearing under the State Administrative Procedures Act¹. As the Secretary of State considers adoption of rules concerning verification and the hearing process for individuals identified as non-citizens, it is the Secretary's intent to hold this informal meeting to promote transparency and afford public access and participation in the process.

The Secretary values your feedback and we would very much like to hear your thoughts on the potential changes that we are considering. Please review and consider the attached proposed draft rules. Information about how to testify at the meeting and/or provide written comments is provided below.

III. Copies of the preliminary draft rules

A preliminary draft of the proposed rules follows this notice. This information is also available online at:

http://www.sos.state.co.us/pubs/rule_making/publicMeetings/2012/20120829Elections.html.

You may contact our office to request a paper or editable electronic copy of the draft for consideration at the public meeting as well.

IV. Opportunity to testify and submit written comments

All interested persons will have the opportunity to testify and provide written comment concerning the proposed amendments. To ensure that the meeting is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office anytime before the meeting. If you attend the meeting, you may submit written comments to the panel as well.

¹ Section 24-4-103(3)(a), C.R.S. (2012).

Additional opportunity to comment in writing may be announced at the conclusion of the meeting.

All written comments will be posted online at the Secretary of State website at: http://www.sos.state.co.us/pubs/rule_making/publicMeetings/2012/20120829Elections.html.

Prior to posting online, our office will redact contact information including home address, email address, and telephone number(s) from submissions unless otherwise directed by the contributor.

V. Broadcast and audio recording of meeting

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

VI. Office contact

If you have any questions or would like to submit written comments, please email SoS.Rulemaking@sos.state.co.us.

VII. Date of notice

August 24, 2012.

Preliminary Draft of Proposed New Rule 52 for Consideration at the August 29, 2012 Public Meeting

Office of the Colorado Secretary of State
Election Rules
8 CCR 1505-1

August 24, 2012

Disclaimer:

This draft is not released as part of a formal rulemaking. If the Secretary of State commences official rulemaking, this office will file and release a notice of proposed permanent rulemaking, statement of basis and purpose, and preliminary draft rules in accordance with the State Administrative Procedure Act.¹

This preliminary draft of possible rules is provided for consideration at the following public meeting:

Date/time: August 29, 2012 from 1:00 p.m. to 5:00 p.m.
Location: Secretary of State's Office
Blue Spruce Conference Room
1700 Broadway, Second floor
Denver, Colorado 80290.

If you have questions or concerns please contact:

Andrea Gyger – Dept. Rulemaking and Title Board Manager
Phone: (303) 894-2200 x6329
Email: SoS.Rulemaking@sos.state.co.us

SMALL CAPS indicates proposed additions to the current rules.

~~Stricken type~~ indicates proposed deletions from current rules.

Annotations may be included.

1 New Rule 52:

2 **Rule 52. VERIFICATION AND HEARING PROCESS FOR INDIVIDUALS IDENTIFIED AS NON-CITIZENS**

3 52.1 THE SECRETARY OF STATE WILL PERIODICALLY OBTAIN LISTS OF INDIVIDUALS IDENTIFIED IN
4 STATE OR FEDERAL DATABASES AS POTENTIAL NON-CITIZENS. THE SECRETARY WILL COMPARE
5 THE LISTS TO THE STATEWIDE VOTER REGISTRATION DATABASE (SCORE) USING MINIMUM
6 MATCHING CRITERIA AS DEFINED IN SECTIONS 1-2-603 AND 1-2-604, C.R.S., AND RULE 2.21.

7 52.2 THE SECRETARY WILL SUBMIT RECORDS OF REGISTERED ELECTORS IDENTIFIED AS POTENTIAL
8 NON-CITIZENS TO THE SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM
9 OF THE U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) TO DETERMINE THE ELECTOR'S
10 CITIZENSHIP STATUS.

11 52.3 IF SAVE INDICATES THAT THE REGISTERED ELECTOR IS NOT A U.S. CITIZEN, THE SECRETARY
12 WILL SEND WRITTEN NOTICE TO THE REGISTERED ELECTOR IN ACCORDANCE WITH DHS
13 REQUIREMENTS. THE NOTICE WILL:

¹ Section 24-4-103(3)(a), C.R.S. (2012).

1 (a) INFORM THE REGISTERED ELECTOR THAT THE ELECTOR'S CITIZENSHIP STATUS IS IN
2 QUESTION;

3 (b) INFORM THE REGISTERED ELECTOR THAT A HEARING WILL BE SET AND INFORM THE
4 ELECTOR OF THE HEARING LOCATION AND PROCEDURES; AND

5 (c) CONTAIN A FORM ALLOWING THE ELECTOR TO INDICATE THAT HE OR SHE:

6 (1) IS NOT A U.S. CITIZEN;

7 (2) IS NOT THE PERSON INDICATED IN THE NOTICE; OR

8 (3) IS A U.S. CITIZEN AND INSTRUCTING THE ELECTOR TO PROVIDE A COPY OF PROOF
9 OF U.S. CITIZENSHIP.

10 52.4 THE SECRETARY WILL CONDUCT THE HEARING AND ISSUE A DETERMINATION CONCERNING THE
11 REGISTERED ELECTOR'S CITIZENSHIP STATUS. THE HEARING OFFICER MAY CONDUCT THE
12 HEARING IN A MANNER CONSISTENT WITH SECTION 24-4-105, C.R.S.

13 52.5 IF THE SECRETARY FINDS SUFFICIENT EVIDENCE TO CANCEL THE ELECTOR'S REGISTRATION, THE
14 SECRETARY WILL NOTIFY THE ELECTOR OF THE FINAL DETERMINATION AND DIRECT THE
15 APPROPRIATE COUNTY CLERK AND RECORDER TO CANCEL THE ELECTOR'S REGISTRATION
16 RECORD.

17 52.6 AN ELECTOR MAY APPEAL A DETERMINATION MADE UNDER THIS RULE IN ACCORDANCE WITH
18 SECTION 1-1-113, C.R.S.