

# The Vermont Statutes Online

## Title 03 : Executive

### Chapter 025 : Administrative Procedure

#### § 838. Filing of proposed rules

(a) Proposed rules shall be filed with the Secretary of State. The filing shall include the following:

- (1) a cover sheet;
- (2) an economic impact statement;
- (3) an incorporation by reference statement, if the proposed rule includes an incorporation by reference;
- (4) an adopting page;
- (5) the text of the proposed rule;
- (6) an annotated text showing changes from existing rules;
- (7) an explanation of the strategy for maximizing public input on the proposed rule as prescribed by the Interagency Committee on Administrative Rules; and
- (8) a brief summary of the scientific information upon which the proposed rule is based to the extent the proposed rule depends on scientific information for its validity.

(b) The cover sheet shall be on a form prepared by the Secretary of State containing at least the following information:

- (1) the name of the agency;
- (2) the title or subject of the rule;
- (3) a concise summary explaining the effect of the rule;
- (4) the specific statutory authority for the rule, and, if none exists, the general statutory authority for the rule;
- (5) an explanation of why the rule is necessary;
- (6) an explanation of the people, enterprises, and government entities affected by the rule;
- (7) a brief summary of the economic impact of the rule;

(8) the name, address, and telephone number of an individual in the agency able to answer questions and receive comments on the proposal;

(9) a proposed schedule for completing the requirements of this chapter, including, if there is a hearing scheduled, the date, time, and place of that hearing and a deadline for receiving comments;

(10) whether the rule contains an exemption from inspection and copying of public records, or otherwise contains a Public Records Act exemption by designating information as confidential or limiting its public release and, if so, the asserted statutory authority for the exemption and a brief summary of the reason for the exemption; and

(11) a signed and dated statement by the adopting authority approving the contents of the filing.

(c)(1) The economic impact statement shall analyze the anticipated costs and benefits to be expected from adoption of the rule. Specifically, each economic impact statement shall, for each requirement in the rule:

(A) List categories of people, enterprises, and government entities potentially affected and estimate for each the costs and benefits anticipated.

(B) Compare the economic impact of the rule with the economic impact of other alternatives to the rule, including no rule on the subject or a rule having separate requirements for small business.

(C) Include a flexibility statement. The flexibility statement shall compare the burden imposed on small businesses by compliance with the rule to the burden which would be imposed by alternatives considered under section 832a of this title.

(D) Include a greenhouse gas impact statement. The greenhouse gas impact statement shall explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted. The Secretary of Administration, in conjunction with the Secretaries of Agriculture, Food and Markets, of Natural Resources, and of Transportation, and the Commissioner of Public Service shall provide a checklist which shall be used in the adoption of rules to assure the full consideration of greenhouse gas impacts, direct and indirect.

(2) In addition, each economic impact statement shall conclude that the rule is the most appropriate method of achieving the regulatory purpose and, with respect to small businesses, contain any findings required by section 832a of this title. Only employees of the agency and information either already available to the agency or available at reasonable cost shall be used in preparing economic impact statements.

(d) Any required incorporation by reference statement shall include a separately signed statement by the adopting authority:

(1) certifying that the text of the matter incorporated has been reviewed by the agency, with the name of the reviewing official;

(2) explaining how the text of the matter incorporated can be obtained by the public, and at what cost;

(3) explaining any modifications to the matter incorporated;

(4) discussing the comparative desirability of reproducing the incorporated matter in full in the text of the rule; and

(5) certifying that the agency has the capability and the intent to enforce the rule.

(e) The adopting page shall be on a form prepared by the Secretary of State and shall contain the name of the agency, the subject of the proposed rule, an explanation of the effect of the proposal on existing rules, and any internal reference number assigned by the agency.

(f) The annotated text of the rule shall include markings to clearly indicate changed wording from any existing rule.

(g) The brief summary of scientific information shall refer to scientific studies upon which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency. (Added 1981, No. 82, § 6; amended 1985, No. 56, § 3; 1999, No. 146 (Adj. Sess.), § 4; 2001, No. 149 (Adj. Sess.), § 50, eff. June 27, 2002; 2007, No. 209 (Adj. Sess.), § 1; 2015, No. 3, § 1.)