

Emergency Rules under the Administrative Procedure Act—3 V.S.A. § 844

- Where an agency believes that there exists an imminent peril to public health, safety, or welfare, it may adopt an emergency rule.
- The rule may be adopted after whatever notice and hearing an agency finds practicable.
- The agency shall make reasonable efforts to ensure that emergency rules are known to persons who may be affected by them.
- Emergency rules shall not remain in effect for more than 180 days. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule.
- Emergency rules shall be filed with the Secretary of State and the Legislative Committee on Administrative Rules (LCAR). LCAR shall distribute copies to appropriate standing committees.
- On a majority vote, the LCAR may object to an emergency rule if the rule is:
 - beyond the authority of the agency;
 - contrary to the intent of the Legislature;
 - arbitrary; or
 - not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.
- If LCAR objects, the objection shall contain a concise statement of the Committee's reasons.
- After an LCAR objection, the burden of proof is on the agency in any judicial review or enforcement action to establish that the rule is within agency authority, consistent with legislative intent, not arbitrary, and justified by an imminent peril to public health, safety, or welfare.
- When LCAR objects to an emergency rule, the agency may withdraw the rule.
- In response to an expressed concern by LCAR, an agency may make a germane change to an emergency rule that is approved by the Committee. A change shall not be considered a newly adopted emergency rule and shall not extend the period an emergency rule remains in effect.
- Under LCAR's general review authority under 3 V.S.A. § 842, the Committee also reviews whether a rule is written in a satisfactory style according to style requirements in 3 V.S.A. § 833.
 - These include the requirement that rules be written in a clear and coherent manner using words with common and everyday meanings.

Report of Big Game—Spring Turkey Season

A. As Passed by the Fish and Wildlife Board

10 App. V.S.A. § 2. Report, big game

(a) A person taking big game, as defined by 10 V.S.A. § 4001(31), pursuant to the seasons provided by law or regulation of the Fish and Wildlife Board, shall within 48 hours report the taking and exhibit the carcass to the nearest game warden, official Fish and Wildlife Department Reporting Station, or to a person designated by the Commissioner to receive the reports. **Notwithstanding this section**, due to the public health risk associated with COVID-19, a person taking turkey shall report electronically or as otherwise authorized by the Commissioner and shall only be required to exhibit the carcass of a turkey at the request of a state game warden.

No big game carcass shall be transported out of the State without first being reported as required herein.

(b) The Commissioner shall pay to the authorized agent a fee of \$1.00 for each report taken on species where reports are required by law.

B. Proposed Revision

10 App. V.S.A. § 2. Report, big game

(a) A person taking big game, as defined by 10 V.S.A. § 4001(31), pursuant to the seasons provided by law or regulation of the Fish and Wildlife Board, shall within 48 hours report the taking and exhibit the carcass to the nearest game warden, official Fish and Wildlife Department Reporting Station, or to a person designated by the Commissioner to receive the reports. No big game carcass shall be transported out of the State without first being reported as required herein.

(b) The Commissioner shall pay to the authorized agent a fee of \$1.00 for each report taken on species where reports are required by law.

(c) **Notwithstanding the reporting requirements of subsection (a) of this section**, due to the public health risk associated with COVID-19, a person taking turkey shall report electronically or as otherwise authorized by the Commissioner and shall only be required to exhibit the carcass of a turkey at the request of a state game warden.