

H.715 as Passed by Senate

Sec. 3- Implementation- new language on rulemaking

- (f) Final rules.
- (1) On or before January 15, 2024, the Commission shall submit to the General Assembly final proposed rules to implement the Clean Heat Standard. The Commission shall not file the final proposed rules with the Secretary of State until specific authorization is enacted by the General Assembly to do so.
- (2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon affirmative authorization enacted by the General Assembly authorizing the adoption of rules implementing the Clean Heat Standard, the Commission shall file, as the final proposed rule, the rules implementing the Clean Heat Standard approved by the General Assembly with the Secretary of State and Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841. The filing shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–(13), (15), and (16) and 841(b)(1).
- (3) The review, adoption, and effect of the rules implementing the Clean Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).
- (4) Once adopted and effective, any amendments to the rules implementing the Clean Heat Standard shall be made in accordance with the Administrative Procedure Act, 3 V.S.A. chapter 25.

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- § 820. Interagency Committee on Administrative Rules
 - (a) ICAR is created
 - (b) duties include review of existing and proposed rules of agencies designated by the Governor for style, consistency with the law, legislative intent, and the policies of the Governor. The Committee shall make reports and recommendations concerning programs and activities of designated agencies
 - (c) agency prefiles proposed rule with ICAR; ICAR prescribe a strategy for maximizing public input on the proposed rule

- § 831. Required policy statements and rules
 - (a) agency shall initiate rulemaking and adopt rules in the manner provided by sections 836-844 of this title.
 - (b) agency shall initiate rulemaking to adopt as a rule an existing practice or procedure when so requested by 25 or more persons or by the Legislative Committee on Administrative Rules.
 - (c) shall initiate rulemaking when requested by 25 persons or LCAR to do so
 - (d) rules for contested hearings
 - (e) initiate rulemaking to correct language
 - (f) not required to initiate rulemaking, except as required by this section

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 - (2) **Notwithstanding** 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon affirmative authorization enacted by the General Assembly authorizing the adoption of rules implementing the Clean Heat Standard, the Commission shall file, as the final proposed rule, the rules implementing the Clean Heat Standard approved by the General Assembly with the Secretary of State and Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841.
- § 836. Procedure for adoption of rules
- § 837. Prefiling
- § 838. Filing of proposed rules
- § 839. Publication of proposed rules
- § 840. Public hearing and comment
- § 841. Final proposal
 - (a) After considering public comment as required in section 840 of this title, an agency shall file a final proposal with the Secretary of State and with the Legislative Committee on Administrative Rules. The Committee may require that the agency include an electronic copy of the final proposal with its filing.

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- § 841. Final proposal
- (b) The filing of the final proposal shall include all information required to be filed with the original proposal, suitably amended to reflect any changes made in the rule and the fact that public hearing and comment have been completed.
 - (1) With the final proposal, the agency shall include a statement that succinctly and separately addresses each of the following:
 - (A) how the proposed rule is within the authority of the agency;
 - (B) why the proposed rule is not arbitrary;
 - (C) the strategy for maximizing public input that was prescribed by the Interagency Committee on Administrative Rules and the actions taken by the agency that demonstrate compliance with that strategy;
 - (D) the sufficiency of the economic impact analysis; and
 - (E) the sufficiency of the environmental impact analysis.
 - (2) When an agency decides in a final proposal to overrule substantial arguments and considerations raised for or against the original proposal or to reject suggestions with respect to separate requirements for small businesses, the final proposal shall include a description of the reasons for the agency's decision.
- (c) The Legislative Committee on Administrative Rules shall distribute a copy of the final proposal to:
 - (1) the chairs of the appropriate standing committees;
 - (2) each member of the appropriate standing committees who requests a copy of the filing; and
 - (3) the Chairs of the House and Senate Committees on Government Operations, if the cover sheet accompanying the filing identifies a Public Records Act exemption in the rule
- (d) The chair of a standing committee that considered legislation delegating rulemaking authority and, in the case of rules that create or enlarge the scope of a Public Records Act exemption, the Chairs of the House and Senate Committees on Government Operations, may convene the committee for the purpose of considering a recommended course of action for the Legislative Committee on Administrative Rules. The chair may convene such a meeting, pursuant to 2 V.S.A. § 23, while the General Assembly is not in session. Any recommended course of action shall be filed with the Legislative Committee on Administrative Rules no later than five working days before the Committee has scheduled a review of the proposed rule.

...The filing shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–(13), (15), and (16) and 841(b)(1).

- (a) Filing; information. Proposed rules shall be filed with the Secretary of State in a format determined by the Secretary that includes the following information:
 - (1) The name of the agency and the subject or title of the rule.
 - (2) An analysis of economic impact.
 - (3) An analysis of environmental impact.
 - (4) An explanation of all material incorporated by reference, if any.
 - (5) The text of the proposed rule.

 - (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. The summary shall refer to the scientific studies on which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.
 - (9) A concise summary in plain language explaining the rule and its effect.
 - (10) The specific statutory authority for the rule, and, if none exists, the general statutory authority for the rule.
 - (11) An explanation of why the rule is necessary.
 - (12) An explanation of the people, enterprises, and government entities affected by the rule.
 - (13) The name, address, and telephone number of an individual in the agency able to answer questions and receive comments on the proposal.
 - (15) 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.
 - (16) A signed and dated statement by the adopting authority approving the contents of the filing.

- § 841. Final proposal
- (b) The filing of the final proposal shall include all information required to be filed with the original proposal, suitably amended to reflect any changes made in the rule and the fact that public hearing and comment have been completed.
 - (1) With the final proposal, the agency shall include a statement that succinctly and separately addresses each of the following:
 - (A) how the proposed rule is within the authority of the agency;
 - (B) why the proposed rule is not arbitrary;
 - (C) the strategy for maximizing public input that was prescribed by the Interagency Committee on Administrative Rules and the actions taken by the agency that demonstrate compliance with that strategy;
 - (D) the sufficiency of the economic impact analysis; and
 - (E) the sufficiency of the environmental impact analysis.

(3) The review, adoption, and effect of the rules implementing the Clean Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).

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- (c) The Legislative Committee on Administrative Rules shall distribute a copy of the final proposal to:
 - (1) the chairs of the appropriate standing committees;
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- § 842. Review by Legislative Committee

- Not including: Grounds for objection: (4) the agency did not adhere to the strategy for maximizing public input prescribed by ICAR;

- § 843. Filing of adopted rules

- § 845. Effect of rules

- § 846. Remedies for procedural failures

- Not including: (a) The following shall prevent a rule from taking effect (3) failure to file with ICAR;