

Administrative Procedures – Emergency Rule Filing**Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). An increased risk of exposure between state agencies' personnel to the COVID-19 virus during the global pandemic established by the World Health Organization as of March 11, 2020.

I approve the contents of this filing entitled:

Rule on Rulemaking

/s/ James C. Condos

(signature)

, on 09/22/2021

(date)

Printed Name and Title:

James C. Condos

Secretary of State

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Emergency Rule Coversheet

1. TITLE OF RULE FILING:

Rule on Rulemaking

2. ADOPTING AGENCY:

Office of the Secretary of State

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Chris Winters, Deputy Secretary of State

Agency: Office of the Secretary of State

Mailing Address: 128 State Street, Montpelier VT 05633-1101

Telephone: 802 828 - 2636 Fax: 802 828 - 2496

E-Mail: sos.statutoryfilings@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://sos.vermont.gov/secretary-of-state-services/apa-rules/>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Louise Corliss

Agency: Office of the Secretary of State, VSARA

Mailing Address: 1078 US. Rte. 2 Middlesex, Montpelier VT 05633-7701

Telephone: 802 828 - 2863 Fax: 802 828 - 3700

E-Mail: sos.statutoryfilings@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

Emergency Rule Coversheet

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

3 V.S.A. § 847(c)

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

Title 3 V.S.A. § 847(c) tasks the Secretary of State with adopting rules for the effective administration of the Administrative Procedures Act including uniform procedural requirements, style, appropriate forms, and a system of compiling and indexing rules. This administrative rule governs procedural requirements for filing administrative rules.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This emergency filing will allow the continuation of electronic submission of APA filings by email with a "conformed signature" until the permanent rule can be adopted and implemented. The benefits of electronic submission and continued reduction of in-person contact continue to be desirable as the COVID-19 pandemic persists. This amendment will also remove a requirement to notify ICAR and LCAR 30 days before the SOS makes changes to the filing forms, and make some minor formatting and housekeeping changes which will also be present in the permanent rule.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

While the amendments in the emergency rules were initially adopted to reduce the risk of exposure to COVID-19 by providing a method of delivery without person to person contact, it has become clear that electronic submission is both possible and desirable by the many state agencies that file administrative rules. Once the pandemic subsides the Secretary of State believes that keeping the benefits of electronic submission in place makes sense and will continue to be beneficial to all parties involved. By removing the 30 day notice period for changes to the forms the Secretary of State can be as flexible as possible in the presentation of current filing forms reflective of public input and statutory changes for filing agencies.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The rule provides an outline of the rulemaking process and enforces use of forms and protocols provided by the SOS to ensure statutory compliance and consistency between agency filings. Changes implemented during the pandemic to facilitate electronic submission of filings have proved beneficial not only to the SOS but to agencies filing rules. Continued acceptance of filings with conformed signatures allows the SOS to continue to accept electronic filings while still maintaining the ability to append related materials (memos, invoices, correspondence, comments etc.) to the electronic files. Specifying the allowance of conformed signatures makes clear to filers that other digital signature methods are not acceptable. Other digital and e-signature formats lock the file and prevent the SOS from adding addendum or appendix materials as needed. These changes to the rule will promote efficiency and ease of filing.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All agencies as defined in 3 V.S.A. § 801(b) (1) that file administrative rules.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Economic impacts are difficult to quantify in monetary values, however the Secretary of State anticipates a minimal positive impact expected in the reduction of gasoline usage and mileage reimbursements associated with travel to the Middlesex Facility to file rules, agencies may incur a negligible increase in staff time required to digitize files for electronic submission, which may be offset by the reduction of paper consumption where filings were previously printed.

13. A HEARING IS NOT SCHEDULED .

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Emergency Rule Coversheet

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 09/28/2021

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

03/27/2022

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Rule on Rulemaking

Electronic Filing

COVID-19

Coronavirus

Emergency Rule

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:
Rule on Rulemaking
2. ADOPTING AGENCY:
Office of the Secretary of State
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):
 - **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
 - **NEW RULE** - A rule that did not previously exist even under a different name.
 - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):
SOS Log# 10-035 Rule on Rulemaking effective 10/15/2010
Emergency Rule 20-E05 Rule on Rulemaking effective 04/06/2020 expired 10/03/2020.
Emergency Rule 20-E19 Rule on Rulemaking effective 10/02/2020 expired 03/31/2021.
Emergency Rule 21-E04 Rule on Rulemaking effective 04/01/2021 expires 09/28/2021.

State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-3320

Susanne R. Young, Secretary


MEMORANDUM

TO: Jim Condos, Secretary of State

FROM: Kristin L. Clouser, ICAR Chair

DATE: September 23, 2021

RE: Emergency Rule Titled 'Rule on Rulemaking' by the Office of the Secretary of State

Kristin L.
Clouser  Digitally signed by
Kristin L. Clouser
Date: 2021.09.23
07:38:00 -04'00'

The use of rulemaking procedures under the provisions of 3 V.S.A. §844 is appropriate for this rule. I have reviewed the proposed rule provided by the Office of the Secretary of State and agree that emergency rulemaking is necessary.

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Rule on Rulemaking

2. ADOPTING AGENCY:

Office of the Secretary of State

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

All agencies as defined in 3 V.S.A. § 801(b) (1) that file administrative rules.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

This rule does not affect schools or taxpayers.

Economic Impact Analysis

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

No alternatives are currently being considered as this rule does not affect local school districts.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

This rule does not affect small businesses.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

This rule does not affect small businesses.

8. COMPARISON:

COMPARE THE 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:

Though difficult to quantify, the impacts of discontinuing electronic delivery of APA filings could still be substantial as the COVID-19 pandemic persists. Without knowing when the pandemic will subside, making electronic submission a permanent change to the rulemaking will continue to protect state agencies' personnel from unnecessary risk of exposure that could result in a significant loss of staff time if the virus should spread through multiple state offices due to the person to person contact. Agencies will also continue benefiting from electronic submission in the reduction of travel, paper consumption and the added convenience of submitting filings via email.

9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

Economic impact analysis for the transition to permanently accepting electronic submission of administrative rules continues to be speculative as very little in the way of quantifiable data is available. The number of rule filings varies greatly year to year and the SOS can only speculate on how the costs associated with rules filed electronically would

Economic Impact Analysis

compare to the same rules being filed in paper format. The Secretary of State believes the rule will have minimal impacts economically and any impacts will be offset by the benefits shared by state agencies filing rules electronically. No complaints about the ability to file documents electronically have been received related to an economic impact or otherwise. Removal of the need for ICAR and LCAR approval of SOS form changes may provide a positive economic impact by reducing staff time and costs associated with such review.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Rule on Rulemaking

2. ADOPTING AGENCY:

Office of the Secretary of State

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

A negligible reduction in greenhouse gas could be expected by the reduction of vehicular travel to and from the Middlesex Facility to file rules.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

Negligible impact expected from reduced vehicular travel.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact expected.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

No impact expected.

Environmental Impact Analysis

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

Negligible impact expected from reduced vehicular travel.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

Negligible impact expected from reduced vehicular travel.

9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

Environmental impacts from the changes within the Rule on Rulemaking are minimal and cannot be quantified at this time. Since the existing rule has minimal impacts environmentally, the emergency rulemaking is also expected to have a minimal impact environmentally.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Rule on Rulemaking

2. ADOPTING AGENCY:

Office of the Secretary of State

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

The Secretary of State received positive feedback from filing agencies since implementing the emergency rules allowing electronic submission of rule filings with conformed signatures. The agency elicited feedback by holding a hearing and gathering comments from rulemaking agencies regarding electronic submission of rules and the removal of the 30 day notice period for updates to filing forms.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Office of the Secretary of State will send a memorandum to the head of all state agencies notifying them to the changes to the Rule on Rulemaking requesting they disseminate the information throughout their staff who prepare administrative rules. Notice will also be posted on the Secretary of State's website.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

State Agencies, ICAR and LCAR committees have been working with the Secretary of State in the development of these rules.

Annotated
Text

RULE ON RULEMAKING OFFICE OF THE SECRETARY OF STATE

~~2010~~2021

Section 1. Introduction.

This rule is required by 3 V.S.A. § 847(e) for the effective administration of ~~3 V.S.A. Chapter 25 of Title 3.~~ It applies to every agency of state government adopting rules under the Vermont Administrative Procedures Act (APA). For a fuller understanding of the rulemaking process, consult 3 V.S.A. §§ 801 - 849 and the rules of procedure of the Legislative Committee on Administrative Rules (LCAR). ~~For the purpose of the Rule on Rulemaking, the filing of any new rule, amendment, or repeal of an existing rule shall be described as a rule.~~

Section 2. Filings.

The APA requires agencies to make filings of every new, amended, or repealed rule at least four times during the rule making process.

2.1 Prefiling

The first filing is the Prefiling with the Interagency Committee on Administrative Rules (ICAR). This begins the rulemaking process.

2.2 Proposed

The second filing is the Proposed Rule with the Office of the Secretary of State. This begins the notice and public comment period.

2.3 Final Proposed

The third filing is the Final Proposed Rule, which is filed with the Office of the Secretary of State and LCAR. This signals the end of the notice and public comment period.

2.4 Adopted Rule

After LCAR review, the fourth and last filing is the Adopted Rule (filed with both the Office of the Secretary of State and LCAR), which marks the beginning of the minimum ~~15 day~~ 15-day period required by statute ~~3 V.S.A. § 845(d)~~ for the effective date of the rule.

~~All filings with the Office of the Secretary of State shall arrive no later than 3:30 p.m. on the last day of the scheduled workweek.~~

Section 3. Forms

~~For the purpose of the Rule on Rulemaking, the filing of any new rule, amendment, or repeal of an existing rule shall be described as a rule.~~ Agencies must use the forms provided published by the Office of the Secretary of State for that purpose; altered forms will not be accepted. All forms requiring the signature of the adopting authority to be filed with the Office of the Secretary of State shall ~~be include~~ include an original signature, or, if the form is filed electronically with the Office of the Secretary of State, a conformed signature.

"Conformed signature" means a typed signature on a form provided by the Office of the Secretary of State that is submitted electronically to the office Office of the Secretary of state State for filing. The Secretary of State will accept forms electronically submitted for filing if all of the following conditions have been met:

1. Full name of person who signed the original form is typed in this format: /s/ Name of Person;

Revised October 2, 2014, number 1528, 2014/2021

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Commented [CL1]: Accepted comment regarding citation of APA Statute in all instances.

Commented [CL2]: Second symbol added to properly cite a range of statutes

Commented [CL3]: Rejected comment to change citation... Section 801 includes definitions that are relevant to rulemaking.

Commented [CL4]: David Englander asked where they are... LCAR has them, I have an old copy but as far as I can tell they are not posted anywhere online or otherwise available except from LCAR... it does beg a question of whether we need to incorporate them by reference though?

Commented [CL5]: Clarification - this sentence was moved to the introduction (Section 1) and serves to explain that in the context of the "Rule on Rulemaking" a filing of a new rule, an amendment to an existing rule, or a repeal of an existing rule may be referred to as "a rule"

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Commented [CL6]: Deadline for comment ensures that SOS staff has adequate time to review filings without incurring overtime.

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Commented [CL7]: Clarification - this sentence serves to define "rule" in the context of rulemaking such that the word "rule" may refer to a new rule, an amendment to an existing rule, or a repeal of an existing rule. Moved to Section 1.

Commented [CL8]: Accepted comment to change the adjective, and remove fragment

Commented [CL9]: Verb changed for enhanced readability

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2. Form is submitted electronically in the file format and in the manner prescribed on the form; and
3. Form with the original signature of the adopting authority is retained by the adopting authority as required by ~~statute 3 V.S.A. § 843(c)(1)~~

The forms are available for download from the Office of the Secretary of State's website. ~~Due to~~ compatibility issues use the forms in the formats in which they are provided. The forms include:

1. Proposed Rule ~~Coversheet~~Filing provides information about the proposed rule for the required notice.
2. Final Proposal ~~Coversheet~~Filing delineates any changes from the proposed rule.
3. Adopted Rule ~~Coversheet~~Filing lists the procedural history of the rule and indicates that the rule has been reviewed by LCAR, has been adopted by the agency, and assigned an effective date.
4. Adopting Page provides information about the type of filing submitted and whether it is a new rule, an amendment, or a repeal of an existing rule and if so, what those existing rules are.
5. Economic Impact Statement Analysis explains the expected economic impact of the rule.
- 4-6. Environmental Impact Analysis explains the ~~expected and the~~ impact the rule will have on greenhouse gases if it is adopted.
- 5-7. Scientific Information Statement form identifies the scientific information upon which the rule has been based and explains the procedure for obtaining such studies and underlying research data from the agency- if the rule depends on scientific information for its validity.
- 6-8. Public Input Statement form outlines the agency's plan to maximize public input.
- 7-9. Incorporation by Reference Statement form -explains the material to be incorporated, and where it can be obtained and at what cost.
- 8-10. Emergency Rule- ~~Coversheet~~Filing replaces the Proposed Rule ~~Coversheet~~-Filing for Emergency Rules.

~~Adopting Page provides information about the type of filing submitted and whether it is a new rule, an amendment or a repeal of an existing rule and if so, what those existing rules are.~~

~~Any change(s) to the Rule on Rulemaking forms shall not occur without 30 days notice of such change(s) to ICAR and LCAR (3 V.S.A. see 834(b) and see 847(c)).~~

If the Office of the Secretary of State finds that ~~the a~~ filings meets the statutory and regulatory requirements found in chapter 25 of title 3 of the Vermont Statutes, the rule is stamped with the date and ~~filed~~ will be accepted for filing. The Office of the Secretary of State will notify an agency of any defects in a filing within 3 working business days from receipt.

In addition to the appropriate forms, an agency must ~~file~~ also submit the text of the proposed or adopted rule and an annotated text showing changes from any existing rules. ~~Filing~~ Submitting a paragraph or page of a larger rule is not sufficient and a complete annotation is required. A new proposed rule need not be accompanied by an annotated text.

~~To the extent that a rule depends on scientific information for its validity, it shall include a brief summary of that information including reference to any scientific studies upon which the proposed rule is based, and shall explain the procedure for obtaining such studies and underlying research data from the agency.~~

~~Whenever an agency intends to adopt a rule through incorporation by reference, a copy of all incorporated materials must be filed with an Incorporation by Reference Statement form.~~

~~All filings with the Office of the Secretary of State shall arrive no later than 3:30 p.m. on the last day of the scheduled work week.~~

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Commented [CL10]: Word statute and bracketing removed to standardize the citations of statute in the rule.

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Commented [CL11]: Recommended changes were rejected. This language is specifically intended to prevent conversion of MS Word files to other word processing software as conversion causes errors and sometimes corruption of the file. The only acceptable formats for filing are printed materials bearing an original signature or direct saved PDF files with conformed signatures. Testing was performed to ensure that direct saved PDF files do not change the appearance of the forms and are compatible with internal systems at the SOS.

Commented [CL12]: Item 9 moved up in the list to reorder the list to mimic the orientation of the forms within the forms packet. Also, one of the forms was inadvertently omitted and has been added.

Because the Emergency Rule Coversheet is located in a separate packet to avoid confusion, it has been moved to the bottom of the list.

Commented [CL13]: This paragraph has been pared down and added under the forms list.

Commented [CL14]: Statutory changes to incorporation by reference superseded this paragraph, and it should have been removed during the proposal as it is outdated.

Commented [CL15]: Deadline for comment ensures that SOS staff has adequate time to review filings without incurring overtime

Section 34. Public Notice.

Notices of completed filings of proposed rules received by 3:30 p.m. on the last day of the scheduled workweek will be posted online the following week. Links to the notices will be available on the Secretary of State's APA web pages and the notices will appear in the newspapers of record the week following the posting of the online notice ~~and will remain posted online for five weeks.~~

Commented [CL16]: Inaccurate and irrelevant - delete this.

When an agency needs to hold a new hearing, reschedule a hearing, or extend the public comment period, learns of the need for a new hearing date or for an extension of the public comment period, the agency must notify the office of the Office of the Secretary of State and must notify by mail all individuals who have contacted the agency about the rule. The Office of the Secretary of State shall amend the notices to reflect the changes in hearing and deadline for public comment.

When a public hearing has not been scheduled, an agency shall set a deadline for public comment not less than two full week ~~14 calendar days~~ following the publication in the newspapers of record. If an agency then receives a petition for a public hearing, or decides to hold a hearing on its own initiative, the agency must notify the Office of the Secretary of State so the notices may be amended to reflect the new hearing information and the deadline for public comment shall be reestablished to a date not less than seven days following the last public hearing.

Commented [CL17]: Fourteen rendered as a numeral as it is a number higher than ten and the days are specified as calendar days.
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Clean
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**RULE ON RULEMAKING
OFFICE OF THE SECRETARY OF STATE**

2021

Section 1. Introduction.

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2.4 Adopted Rule

After LCAR review, the fourth and last filing is the Adopted Rule (filed with both the Office of the Secretary of State and LCAR), which marks the beginning of the minimum 15-day period required by 3 V.S.A. § 845(d) for the effective date of the rule.

All filings with the Office of the Secretary of State shall arrive no later than 3:30 p.m. on the last day of the scheduled workweek.

Section 3. Forms

Agencies must use the forms published by the Office of the Secretary of State; altered forms will not be accepted. All forms requiring the signature of the adopting authority to be filed with the Office of the Secretary of State shall include an original signature or, if ~~the form is~~ filed electronically with the Office of the Secretary of State, a conformed signature.

“Conformed signature” means a typed signature on a form provided by the Office of the Secretary of State that is submitted electronically to the Office of the Secretary of State for filing. The Secretary of State will accept forms electronically submitted for filing if all of the following conditions have been met:

1. Full name of person who signed the original form is typed in this format: /s/ Name of Person;
2. Form is submitted electronically in the file format and in the manner prescribed on the form; and
3. Form with the original signature of the adopting authority is retained by the adopting authority as required by ~~statute~~ {3 V.S.A. § 843(e)}.

The forms are available for download from the Office of the Secretary of State's website. Due to compatibility issues use the forms in the formats in which they are provided. The forms include:

1. Proposed Rule Filing provides information about the proposed rule for the required notice.
2. Final Proposal Filing delineates any changes from the proposed rule.
3. Adopted Rule Filing, lists the procedural history of the rule and indicates that the rule has been reviewed by LCAR, has been adopted by the agency, and assigned an effective date.
4. Adopting Page provides information about the type of filing submitted and whether it is a new rule, an amendment, or a repeal of an existing rule and if so, what those existing rules are.
5. Economic Impact Analysis explains the expected economic impact of the rule.
6. Environmental Impact Analysis explains the expected impact the rule will have on greenhouse gases if it is adopted.
7. Scientific Information form identifies the scientific information upon which the rule has been based and explains the procedure for obtaining such studies and underlying research data from the agency if the rule depends on scientific information for its validity.
8. Public Input form outlines the agency's plan to maximize public input.
9. Incorporation by Reference form explains the material to be incorporated, and where it can be obtained and at what cost.
10. Emergency Rule Filing replaces the Proposed Rule Filing for Emergency Rules.

If the Office of the Secretary of State finds that a filing meets statutory and regulatory requirements the rule will be accepted for filing. The Office of the Secretary of State will notify an agency of any defects in a filing within 3 business days from receipt.

In addition to the appropriate forms, an agency must also submit the text of the proposed or adopted rule and an annotated text showing changes from any existing rules. Submitting a paragraph or page of a larger rule is not sufficient and a complete annotation is required. A new proposed rule need not be accompanied by an annotated text.

Section 4. Public Notice.

Notices of completed filings of proposed rules received by 3:30 p.m. on the last day of the scheduled workweek will be posted online the following week. Links to the notices will be available on the Secretary of State's APA web pages and the notices will appear in the newspapers of record the week following the posting of the online notice..

When an agency needs to hold a new hearing, reschedule a hearing, or extend the public comment period, the agency must notify the Office of the Secretary of State and must notify by mail all individuals who have contacted the agency about the rule. The Office of the Secretary of State shall amend the notices to reflect the changes in hearing and deadline for public comment.

When a public hearing has not been scheduled, an agency shall set a deadline for public comment not less than 14 calendar days following the publication in the newspapers of record.

The Vermont Statutes Online

Title 3 : Executive

Chapter 025 : Administrative Procedure

Subchapter 003 : Rulemaking; Procedures; Guidance Documents

(Cite as: 3 V.S.A. § 847)

§ 847. Availability of adopted rules; rules by Secretary of State

(a) Availability from agency. An agency shall make each rule it has finally adopted available to the public online and for physical inspection and copying. Online, the agency shall post its adopted rules on a separate web page that is readily accessible from a prominent link on its main web page, that lists adopted rules by title and topic, and that is searchable.

(b) Register; code.

(1) The Secretary of State (Secretary) shall keep open to public inspection a permanent register of rules. The Secretary may satisfy this requirement by incorporating the register into the centralized rule system created pursuant to section 818 of this title.

(2) The Secretary shall publish a code of administrative rules that contains the rules adopted under this chapter. The requirement to publish a code shall be considered satisfied if a commercial publisher offers such a code in print at a competitive price and at no charge online. However, if the Secretary establishes the centralized rule system under section 818 of this title as a digital system, then the system shall include the online publication of this code.

(c) Rules for administration. The Secretary of State shall adopt rules for the effective administration of this chapter. These rules shall be applicable to every agency and shall include uniform procedural requirements, style, appropriate forms, and a system for compiling and indexing rules. (Added 1981, No. 82, § 6; amended 1995, No. 61, § 5; 2013, No. 142 (Adj. Sess.), § 10; 2015, No. 131 (Adj. Sess.), § 19; 2015, No. 169 (Adj. Sess.), § 11; 2017, No. 156 (Adj. Sess.), § 2.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	21-E15
Title:	Rule on Rulemaking.
Type:	Emergency
Status:	Adopted
Agency:	Office of the Secretary of State
Legal Authority:	3 V.S.A. § 847(c)

Summary: This emergency filing will allow the continuation of electronic submission of APA filings by email with a "conformed signature" until the permanent rule can be adopted and implemented. The benefits of electronic submission and continued reduction of in-person contact continue to be desirable as the

COVID-19 pandemic persists. This amendment will also remove a requirement to notify ICAR and LCAR 30 days before the SOS makes changes to the filing forms, and make some minor formatting and housekeeping changes which will also be present in the permanent rule.

Persons Affected: All agencies as defined in 3 V.S.A. § 801(b)(1) that file administrative rules.

Economic Impact: Economic impacts are difficult to quantify in monetary values, however the Secretary of State anticipates a minimal positive impact expected in the reduction of gasoline usage and mileage reimbursements associated with travel to Middlesex Facility to file rules, and Agencies may incur a negligible increase in staff time required to digitize files for electronic submission.

Posting date: Sep 28,2021

Hearing Information

There are not Hearings scheduled for this Rule

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[VIEW WEBSITE](#)

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Keyword Information

Keywords:

Rule on Rulemaking
Electronic Filing
COVID-19
Coronavirus
Emergency Rule

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