

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative 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” on line, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Vital Records Rule

/s/ Jenney Samuelson

, on 03/08/2022

(signature)

(date)

Printed Name and Title:

Jenney Samuelson

Secretary, Agency of Human Services

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)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Vital Records Rule

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P-037

3. ADOPTING AGENCY:

Department of Health

4. PRIMARY CONTACT PERSON:

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

Name: David Englander

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7312 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

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

<http://healthvermont.gov/regs/index.aspx>

5. 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: Natalie Weill

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05401

Telephone: 802 863 - 7312 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

6. 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:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(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).

Final Proposed Coversheet

18 V.S.A §§ 5000 (e) (8) and (f), and 3 V.S.A § 801(b) (11).

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

18 V.S.A. § 5000 (e) (8) states: "procedures governing the public's inspection of birth and death certificates, if necessary to protect the integrity of the certificates or to deter fraud;

(8) adopt rules governing:

(A) acceptable content and limitations on the number of characters on a birth certificate;

(B) acceptable forms of identification required in connection with applications for certified copies of birth and death certificates; and

(C) the process for denying a certified copy of a birth or death certificate based on a Vital Records Alert System match or evidence of fraud or misrepresentation, notifying affected persons of the denial, and investigating and resolving the issue identified.

8. 18 V.S.A. § 5000 (f) states: "The State Registrar [appointed to lead the Office of Vital Records] may adopt rules as may be necessary to carry out his or her duties under this part."

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. **CONCISE SUMMARY (150 WORDS OR LESS):**

This rulemaking does the following:

Final Proposed Coversheet

- 1) Ensure that certified copies of birth or death certificates are available to employees of a public agency as defined by 1 V.S.A §317 as part of their official duties (within their scope of employment), and to registrants' grandchildren. 2)Amends definitions for clarity and to reflect current usages.
- 3)Removes the section on the disposal of records to ensure consistency with Act 15 (2021).
- 4)Amends the list of documents that fall under the category, "alternate means" of identification to include additional documents to increase accessibility.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The passage of Act 15 in 2021 amended 18 V.S.A § 5016 by expanding the list of eligible parties who may be issued and may request certified copies of vital records. The Act also removed the requirement to dispose of records. The Department is amending the rule to ensure consistency with statute. Amendments made to definitions include changing gendered-pronouns to non-gendered pronouns to include people that fall outside of this binary. Amendments to definitions also include changing the term "homeless person" to "person experiencing homelessness" to follow modern usages. Additional documents will now be acceptable means of identification to increase accessibility.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

Act 15 passed in 2021 amending the list of eligible parties permitted to request certified vital records to include grandchildren of registrants and employees of a public agency when they are conducting activities as part of their official professional duties. This rulemaking will ensure consistency with the law, update the rule to include modern definitions, and add additional acceptable alternative means of identification.

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

All state agencies, and departments
Town Clerks
Eligible party members

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

There is an overall economic benefit to the proposed rule changes. Small efficiencies are gained through the proposed rule changes, however they are unquantifiable.

19. A HEARING WAS HELD.

20. 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.

Date: 1/12/2022

Time: 11:00 AM

Street Address: 108 Cherry St. Burlington, Conference Rm 2A

Zip Code: 05401

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

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

1/19/2022

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

Birth certificates

Death certificates

Vital records



VERMONT
DEPARTMENT OF HEALTH

To: Senator Mark McDonald, Chair of the Legislative Committee on Administrative Rules

From: Natalie Weill, Public Health Policy Advisor for Vermont Department of Health

Re: Vital Records Rule

Date: February 24, 2022

Following the filing of the rule for public comment, the Health Department made the following changes to the proposed rule:

1. The term “registrant” was removed from the following sections in order to improve the clarity of these provisions: Sections 3.3, 3.4, 3.6.2, 4.1, 4.2, and 4.3.
2. Section 2.0 has been amended to reflect consistency with Act 15 (2021) on the disposal of records. Accordingly, Section 2.0 states:

“The purpose of this rule is to establish the specific requirements for obtaining, creating, and storing ~~and disposing of~~ birth and death certificates in Vermont.”
3. The definition in Section 3.3 has been amended to indicate that the affidavit of homeless status can be found on the Department’s website.

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:

Vital Records Rule

2. ADOPTING AGENCY:

Department of Health

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*):

Vital Records Rule; January 1, 2020 Secretary of State
Rule Log #19-069



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: November 15, 2021, Virtual Option: Via Microsoft Teams with physical location option available in the Pavilion Building, 109 State Street, 5th Floor, Montpelier, VT 05609.

Members Present: Diane Bothfeld – acting as Chair, Jennifer Mojo, John Kessler, Diane Sherman, Clare O’Shaughnessy and Michael Obuchowski

Members Absent: Chair Kristin Clouser and Dirk Anderson

Minutes By: Melissa Mazza-Paquette

- 3:00 p.m. meeting called to order, welcome and introductions.
- Note that Ashley Berliner resigned as a member of ICAR due to her primary job responsibilities.
- Review and approval of minutes from the October 11, 2021 meeting.
- Agenda approved as drafted with the addition of committee discussion of administrative rules in other states.
- Note the Reportable and Communicable Diseases Emergency Rule by the Agency of Human Services, Department of Health was supported by ICAR Chair Clouser on 10-29-21.
 - The purpose of this rule is to protect the public health through the reporting of communicable diseases and other diseases dangerous to public health. Through this rulemaking, the Department adds COVID-19 to the list of reportable diseases, clarifies how diseases are to be reported to the Department and by whom, and requires demographic information be reported to the Department. The Department anticipates initiating formal rulemaking soon, which will include the proposed changes to this emergency rule.
- No public comments made.
- Presentation of the Vital Records Rule, Agency of Human Services, Department of Health (see page 2 for details).
- Next scheduled meeting is December 15, 2021 at 1:00 p.m.
- Committee discussion of administrative rules in other states.
 - Documents from other states will be distributed to ICAR members for review to see if there are ways to be more efficient in Vermont. Committee will discuss at a future ICAR meeting as time allows.
- 3:31 p.m. meeting adjourned.

Proposed Rule: Vital Records Rule, Agency of Human Services, Department of Health
Presented By: David Englander

Motion made to accept the rule by John Kessler, seconded by Diane Sherman, and passed unanimously with the following recommendations:

1. Proposed Rule Coversheet, #7: Include more detail in regard to 'State Registrar' and 'duties'.
2. Proposed Rule Coversheet: Consider using another word for 'practices'.
3. Proposed Rule Coversheet, #9: Omit unnecessary words.
4. Proposed Rule Coversheet, #12: Include reasoning.
5. Economic Impact Analysis, #3: 'Applicant' should be plural.
6. Economic Impact Analysis, #9: Clarify what is meant by 'the will'.
7. Throughout the forms: Clarify reference to 'applicants' grandchildren' to be consistent with the proposed rule.

DRAFT

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:

Vital Records Rule

2. ADOPTING AGENCY:

Department of Health

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:

State of Vermont: This will allow the State of Vermont employees to more efficiently obtain vital records when conducting official business.

Eligible party members: This will allow the grandchildren of registrants to obtain vital records, and will allow all applicants more options for acceptable forms of identification.

Economic Impact Analysis

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:

None .

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.*

None .

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):

None .

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.*

None .

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:

Not enacting these changes would make the rule inconsistent with the law.

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

This rule is being implemented consistent with the direction of the General Assembly.

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:

Vital Records Rule

2. ADOPTING AGENCY:

Department of Health

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.):*
None .

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.):*
None .

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
None .

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
None .

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
None .

Environmental Impact Analysis

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

None .

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

There is no impact.

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:

Vital Records Rule

2. ADOPTING AGENCY:

Department of Health

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

A public hearing was held.

The rule is posted on the Department of Health website:
<https://www.healthvermont.gov/about-us/laws-regulations/public-comment>

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

Prior to filing the proposed rule the Department engaged with the Vermont Municipal Clerk's & Treasurers' Association for input. A public meeting was held on 01/12/2022. The Rule has been posted for public comment on the Department's website:
<http://www.healthvermont.gov/about-us/laws-regulations/public-comment>. Hard copies are available by contacting the Department at 802-863-7280.

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

Vermont Municipal Clerk's & Treasurers' Association

Public Comment Responsiveness Summary
Vital Records Rule
February 24, 2022

The Department of Health (Department) held a public hearing on January 12, 2022, in Burlington, Vermont, for the proposed Vital Records Rule. Written comments were accepted through January 19, 2022. The following is a summary of comments received from the public and the Department's responses. All comments were submitted in writing.

- 1. Comment:** One commenter asked if the process to obtain one's own vital record could be amended to make it easier for an individual to obtain these documents in instances where they may not have access to the required identification documents (e.g. because their wallet was lost/stolen) and who are unable to have an eligible party request the records on their behalf.

Response: The Department must balance accessibility to the records while reducing the risk of fraud through illegitimate access. The proposed rule's requirements for identity verification appropriately strikes that balance. The Department regularly works with individuals to help address issues like the one described.

- 2. Comment:** One commenter asked for clarification regarding the alternate means of identification requirements for "applicants" and "registrants"

Response: The Department has updated the rule to clarify the requirements regarding alternative means of identification. Accordingly, the terms "applicant" and "registrant" have been defined.

RE: Vital Records Rule public comment period

Carol Dawes <cdawes@barrecity.org>

Tue 1/18/2022 12:02 PM

To: Weill, Natalie <Natalie.Weill@vermont.gov>

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Hey Natalie,

I have one question with regards to the Vital Records Rule:

- Under Definitions, new item 3.4 "Alternate means of identification" has been amended by changing it to "registrant or the applicant". I'm interpreting that to mean we can accept alternate means of ID from either, so we could get one form of alternate ID from the registrant and one from the applicant.

Am I interpreting that correctly? Or is it required that both forms of alternate ID come from one of them?

Thanks,

Carol

Carolyn S. Dawes CVC CVT
Barre City Clerk/Treasurer
6 N. Main St., Suite 6
PO Box 418
Barre VT
(802) 476-0242
www.barrecity.org

From: Weill, Natalie [mailto:Natalie.Weill@vermont.gov]
Sent: Thursday, January 13, 2022 4:21 PM
To: Carol Dawes <cdawes@barrecity.org>
Subject: Vital Records Rule public comment period

Hello Carol:

My name is Natalie Weill and I am a policy advisor with the Vermont Department of Health, we spoke back in the late summer, early fall on the Vital Records Rule. I'm reaching out to let you know the Vital Records Rule is open for public comment, and will close on 1/19/22. Thank you very much for the work you have contributed.

The link to the proposed rule is here: <https://www.healthvermont.gov/about-us/laws-regulations/public-comment>.

Best,
Natalie

Natalie Weill RN, MPA | [she/her](#)
Public Health Policy Advisor | Department of Health
Office of the Commissioner