

## Final Proposed Filing - Coversheet

### 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 shall 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.

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

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**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:

### **Manufactured Food Rule**

/s/ Todd W. Daloz , on 12/20/23  
(signature) (date)

**Printed Name and Title:**

Todd W. Daloz  
Deputy 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:

**Manufactured Food Rule**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

23P035

3. ADOPTING AGENCY:

Vermont Department of Health

4. PRIMARY CONTACT PERSON:

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

Name: Natalie Weill

Agency: Department of Health

Mailing Address: 108 Cherry St, Burlington, VT 05401

Telephone: 802-863-7280 Fax: 802-951-1275

E-Mail: ahs.vdhrules@vermont.gov

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

<http://www.healthvermont.gov/about-us/laws-regulations/public-comment>

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: Brendan Atwood

Agency: Department of Health

Mailing Address: 108 Cherry St, Burlington, VT 05401

Telephone: 802-863-7282 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).*

18 V.S.A. § 4303; 18 V.S.A. § 4353; and 3 V.S.A. § 801 (b) (11) .

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

18 V.S.A. §4303(a) states, "The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish minimum standards for the safe and sanitary operation of food or lodging establishments or children's camps or any combination thereof and for their administration and enforcement. The rules shall require that an establishment be constructed, maintained, and operated with strict regard for the health of the employees and the public..."

18 V.S.A. §4353 states, "(a)The Commissioner may establish by rule any requirement the Department needs to determine the applicable categories or exemptions for licenses. "

3 V.S.A. §801(b) (11) states "Adopting authority" means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments.

- 8.
9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.
10. THE AGENCY HAS NOT 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 NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
13. THE AGENCY HAS NOT 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):

The purpose of the rule is to provide the requirements for the safe and sanitary manufacturing, packing, holding, and distributing of human food offered for sale in Vermont.

This rulemaking does the following:

(1) Updates the rule for consistency with Title 21 Chapter I of the C.F.R.

(2) Reformats, reorganizes, and clarifies the federal regulations cited in the Incorporation by Reference section.

(3) Defines the scope of the Department of Health issued food manufacturing license. Specifically, the rule clarifies the prohibition of manufacturing of food containing THC under the Department of Health license.

(4) Updates the information required on food labels manufactured by license exempt food manufacturers and license exempt bakeries.

(5) Modifies the rule for clarity.

**15. EXPLANATION OF WHY THE RULE IS NECESSARY:**

This rulemaking is necessary for consistency with Title 21 Chapter I of the C.F.R.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The rulemaking updates the rule for compliance with the recent updates to Title 21 Chapter I of the C.F.R.

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

Licensed exempt food manufacturers, licensed exempt bakeries, consumers, and the health care system.

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

Federal regulation requires the presence of label information on all food products. The proposed rulemaking requires an additional line of text stating, "Made in a home kitchen not inspected by the Vermont Department of Health." The proposed rulemaking has a de minimis economic cost to license exempt food manufacturers and license exempt bakeries for the additional line of text required on food labels.

**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: 11/9/2023

Time: 10:30 AM

Street Address: 108 Cherry St. Burlington, VT Rm 3B

Zip Code: 05401

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NDFkZjFhOTAtOWI1Mi00YTEzLWE2MDQtZmJmMTU0NmQ4NWQx%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22e6440c4f-7582-4db1-800b-a2038a1e1e68%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDFkZjFhOTAtOWI1Mi00YTEzLWE2MDQtZmJmMTU0NmQ4NWQx%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22e6440c4f-7582-4db1-800b-a2038a1e1e68%22%7d)

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Date:

Time: AM

Street Address:

Zip Code:

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Zip Code:

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

11/16/2023

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

Food Safety

Home Bakery

Home Bakeries

Kitchen

Food Producer

Good Manufacturing Practices

Food Processing

Food Manufacturing

Food Labels

280 State Drive - Center Building  
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY  
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JENNEY SAMUELSON  
SECRETARY

TODD W. DALOZ  
DEPUTY SECRETARY

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

MEMORANDUM

**TO:** Sarah Copeland Hanzas, Secretary of State

**FROM:** Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in blue ink, appearing to be 'Jenney Samuelson', written over the 'FROM:' line.

**DATE:** January 31, 2023

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz

## 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.

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1. TITLE OF RULE FILING:

**Manufactured Food Rule**

2. ADOPTING AGENCY:

Vermont Department of Health

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROP DOWN 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 if 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*):

The Good Manufacturing Practices for Food Rule; March 14, 2015 Secretary of State Rule Log #15-006; July 2015 [correction to numbering in Section 4.0]





## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** Monday, March 13, 2023, virtually via Microsoft Teams  
**Members Present:** Chair Sean Brown, Brendan Atwood, Jared Adler, John Kessler, Diane Sherman, Michael Obuchowski, Donna Russo-Savage and Nicole Dubuque  
**Members Absent:** Jennifer Mojo  
**Minutes By:** Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of [minutes](#) from the February 22, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: An emergency rule titled 'Emergency Administrative Rules for Notaries Public Remote Notarization', by the Office of Professional Regulation was supported by ICAR Chair Brown on 03/09/23
  - These Emergency Rules allow an individual to satisfy the "personal appearance" requirement for the performance of notarial acts by appearing before a notary public through a secure communication link using specific protocols and standards.
  - If these Emergency Rules expire before rules are adopted to implement Act 171, Vermont notaries public will no longer be permitted to perform remote notarial acts, thus hampering the performance of crucial transactions.
- No public comments made.
- Presentation of Proposed Rules on pages 2-4 to follow.
  1. 10 V.S.A. App. § 141 Baitfish Regulation, Vermont Fish and Wildlife Board, page 2
  2. Manufactured Food Rule, Vermont Department of Health, page 3
  3. Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies, Vermont Enhanced 911 Board, page 4
- Next scheduled meeting is Monday, April 10, 2023 at 2:00 p.m.
- 2:50 p.m. meeting adjourned

**Proposed Rule:** Manufactured Food Rule, Vermont Department of Health  
**Presented By:** Natalie Weill

Motion made to accept the rule by Diane Sherman, seconded by Jared Adler, and passed unanimously except for Brendan Atwood who abstained, with the following recommendations:

1. Proposed Rule – Coversheet
  - a. #8: Include a statement as to what the rule does overall. Consider adding a hyphen between 'license' and 'exempt' in (4).
  - b. #8 and #9: State the reasoning for the rule.
  - c. #12: Check in with the Agency of Agriculture, Food & Markets and the Attorney General's Office, as they were involved with the Vermont Origins Rule adopted, as small businesses might be affected by this with labeling. Reference that 1, 2, 3, and 5 in #8 doesn't have any economic impact.
  - d. #16: Add Food Label
2. Economic Impact Analysis
  - a. Clarify what the economic impacts are other than the label changes per the four other categories listed in #8 of the Proposed Coversheet.
3. Public Input Maximization Plan
4. #4: Define 'will work' by including a timeline and action steps. Consider groups that work with individuals selling food that should be informed.