

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.

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:

Vermont Low Emission Vehicle and Zero Emission Vehicle Rules

/s/ Julia S. Moore

, on 06/03/2024

(signature)

(date)

Printed Name and Title:

Julia S. Moore, Secretary

Vermont Agency of Natural Resources

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:
Vermont Low Emission Vehicle and Zero Emission Vehicle Rules

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
23P 043

3. ADOPTING AGENCY:
Agency of Natural Resources

4. PRIMARY CONTACT PERSON:

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

Name: Deirdra Ritzer

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Dr, Davis 4, Montpelier,
VT 05620

Telephone: 802-233-8052 Fax:

E-Mail: deirdra.ritzer@vermont.gov

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

<https://dec.vermont.gov/air-quality/laws>

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: Rachel Stevens

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Dr, Davis 2, Montpelier,
VT 05620

Telephone: 802-636-7236 Fax:

E-Mail: rachel.stevens@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).

10 V.S.A. §§ 554, 558, 567.

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

10 V.S.A. Sections 554, 558, and 567 of the Vermont Air Pollution Control Laws allow the ANR Secretary to set emission control requirements on sources of air contaminants in Vermont and specifically to control such emissions from motor vehicles through the prescription of requirements for the use of equipment that will reduce or eliminate emissions.

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 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):

ANR proposes to amend its existing Low Emission Vehicle and Zero Emission Vehicle Rules, which incorporate by reference a suite of motor vehicle emission standards from California including the "Heavy-Duty Engine and Vehicle Omnibus" or "HD Omnibus" regulation. The HD Omnibus regulation sets standards for emissions of nitrogen oxides (NOx) and particulate matter (PM) from on-road heavy-duty engines used in vehicles delivered for sale in Vermont, which help protect public health and air quality. In this rulemaking, ANR proposes to amend the current HD Omnibus regulation to (1) clarify the existing transit bus exemption, (2) adjust the vehicle model year in which vehicle manufacturers can begin earning early compliance credits, and (3) add the

legacy engine provisions that will provide engine manufacturers greater compliance flexibility for vehicle model year 2026, while maintaining the originally projected emissions reductions and public health benefits under the HD Omnibus regulation.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

Under the federal Clean Air Act (CAA), California is the only state authorized to establish its own, stricter, automobile emissions standards, but the CAA allows other states to adopt emission standards that are identical to California's. Vermont first adopted California's standards in 1996 and periodically adopts amendments to maintain consistency with the California standards and the CAA's "identity" requirement. ANR's three proposed amendments to the HD Omnibus regulation ensure compliance with the CAA's identity requirement while maintaining the emissions reduction and public health benefits of the original HD Omnibus regulation.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The decision by the Agency to amend the HD Omnibus regulation is rationally connected to the fact that the proposed amendments will maintain the originally projected emissions reductions and public health benefits while ensuring Vermont's rule is identical to California's rule, which is legally required by the CAA.

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

Vehicle manufacturers and fleet owners

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

There is no economic impact because these amendments do not change emissions standards vehicle manufacturers are already required to comply with under the HD Omnibus. The proposed amendment regarding legacy engine provisions has an estimated \$0 net impact over the lifetime of the regulation between 2026 and 2035. Legacy engine provisions provide compliance flexibility for vehicle manufacturers that gives the option to certify a limited number of 2026 model year (MY) heavy-duty diesel engines to the current exhaust emission

standards in lieu of meeting the HD Omnibus standards (hereinafter, legacy engines), provided they offset any resulting excess emissions. Manufacturers are estimated to have technology costs savings from producing legacy engines in 2026 MY alternatively to HD Omnibus-compliant engines. In turn, manufacturers must offset those increased emissions; the cost to offset these emissions is estimated to be equal to the technology cost savings. See attached Technical Support Document.

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: 12/8/2023

Time: 01:00 PM

Street Address: Agency of Natural Resources, One National Life Drive, Montpelier, VT in the Catamount Room (Davis Building, Second Floor, Room N215)

Zip Code: 05602

URL for Virtual: Microsoft Teams,

Meeting ID: 257 296 065 335 Passcode: 2TAnfi

Call in (audio only): 802-828-7667, 944713572#

Phone Conference ID: 944 713 572#

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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

12/15/2023

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

Air pollution

Motor vehicle emissions

Air quality

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:

Vermont Low Emission Vehicle and Zero Emission Vehicle Rules

2. ADOPTING AGENCY:

Agency of Natural Resources

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 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*):

DEC Rules, Chapter 40, Low Emission Vehicle and Zero Emission Rules, eff. Dec. 16, 2022 (CVR 12-030-040), Adopted Rule Number 22-034.



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: October 9, 2023, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jared Adler, Jennifer Mojo, Diane Sherman, Michael Obuchowski, and Nicole Dubuque
Members Absent: John Kessler and Brendan Atwood
Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order.
- Review and approval of [minutes](#) from the September 11, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: The following emergency rules were supported by ICAR Chair Brown:
 - 'Emergency Administrative Rules for Notaries Public and Remote Notarization' by the Office of Professional Regulation, on 09/19/23
 - OPR seeks to renew the emergency rules to ensure notaries can provide remote notary public services while the permanent rules go through the APA rulemaking process. More permanent rules to implement Act 171 are drafted.
 - 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.
 - 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures' by the VT Public Utility Commission, on 09/25/23
 - Risk of exposure for members of the public and state agency staff to the COVID-19 virus established as a global pandemic by the World Health Organization as of March 11, 2020.
 - This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. This is the seventh extension of the emergency rule filed in April 2020. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The revisions in this version reflect adoption of permanent Commission Rule 2. Two other Commission rules modified by this rule have entered formal rulemaking. The provisions in this revised emergency rule will be superseded when the permanent rules take effect.
- No public comments.
- Presentation of Proposed Rules on pages 3-12 to follow:

1. Residential Care Home and Assisted Living Residence Licensing Regulations, Agency of Human Services, Department of Disabilities, Aging, and Independent Living, page 3
 2. Independent School Program Approval Rules, State Board of Education, page 4
 3. Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources, page 5
 4. Investigation and Remediation of Contaminated Properties Rule (IRule), Agency of Natural Resources, page 6
 5. Children's Personal Care Services, Agency of Human Services, Department of Health, page 7
 6. Rules of the Board of Medical Practice, Agency of Human Services, Department of Health, page 8
 7. Crisis Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, page 9
 8. Seasonal Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, page 10
 9. Rule Governing the Prescribing of Opioids for Pain, Agency of Human Services, Department of Health, page 11
 10. Council Rules, Vermont Criminal Justice Council, page 12
- No other business
 - Next scheduled meeting is November 13, 2023 at 2:00 p.m.
 - 3:54 p.m. meeting adjourned.

Proposed Rule: Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources

Presented By: Deirdra Ritzer and Rachel Stevens

Motion made to accept the rule by Mike Obuchowski, seconded by Nicole Dubuque, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Proposed Filing – Coversheet, #9: Clarify terms per California’s language.
2. Public Input Maximization Plan, #4: Include interested stakeholders that previously commented on the rule.

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. If no impacts are anticipated, please specify “No impact anticipated” in the field.

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:

Vermont Low Emission Vehicle and Zero Emission Vehicle Rules

2. ADOPTING AGENCY:

Agency of Natural Resources

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:

Vehicle manufacturers and fleet owners

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:

The proposed amendments will have no impact on schools.

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.*

The proposed amendments will have no impact on schools, and so no alternatives need be considered.

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):

The proposed amendments do not impose any requirements on small businesses, and there is an estimated \$0 net impact on the cost to purchase and operate legacy engines for fleet owners. Legacy engines are more appealing to fleet owners due to the cost savings from the reduced diesel exhaust fluid (DEF) consumption; therefore, fleet owners may be incentivized to purchase legacy engines at a premium. It is expected that market forces may cause a fleet to be willing to purchase legacy engines at a premium price estimated to be equal to the DEF cost savings per legacy engines. For this reason, there is estimated to be a \$0 net impact on the cost to purchase and operate legacy engines for fleet owners.

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.*

The proposed amendments do not impose any requirements on small businesses, including fleet owners.

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:

The proposed amendments do not impose any requirements on small businesses and will have an estimated \$0 net economic impact, and so no alternatives need be considered. Failure to adopt the proposed amendments could have a negative economic impact on vehicle manufacturers who may need the compliance flexibility

to comply with the HD Omnibus regulation. Additionally, failure to adopt the proposed amendments could impact engine availability for some categories of trucks based on manufacturer product plans for 2026, which could have a negative economic impact on fleet owners.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This analysis is sufficient because it explains that the proposed amendments only affect vehicle manufacturers, do not impose an economic impact on schools, and has an estimated \$0 net economic impact on small businesses, such as fleet owners.