

## LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

The Legislative Committee on Administrative Rules adopts the following rules of procedure under the authority of [3 V.S.A. § 817\(b\)](#).

### § 1. MEETINGS

(a) In discharging its responsibility to review administrative rules, the Committee may conduct meetings and public hearings, consult with representatives of an agency adopting a rule, or take testimony from any person interested in a proposed, final proposed, or emergency rule.

(b) Committee staff from the Office of Legislative Operations shall provide notice of any meeting at which a final proposed rule will be considered by distributing a copy of the agenda to each person scheduled to testify at that meeting and to any person who requests notification of the meeting from the Office of Legislative Operations and by posting a copy of the agenda on the Committee web page.

(c) A public hearing shall be held if the Committee reviews an existing rule or if it reviews a proposed rule before the rule is filed as a final proposed rule with the Secretary of State and the Committee. Public hearings shall be conducted under [3 V.S.A. § 817\(c\)](#). The Committee shall give public notice of any public hearing at least 10 days in advance and shall notify the agency affected.

(d) All testimony shall be recorded. Testimony shall be transcribed at the request of a member of the Committee.

(e) Minutes of all meetings shall be kept by the Committee's staff.

(f) All meetings shall be open to the public unless an executive session is approved under [1 V.S.A. § 313](#).

(g) Meetings shall be called by the Chair or, in the Chair's absence, by the Vice Chair.

§ 2. AGENDA

(a) Any Committee member or staff member may bring up as new business an item that the individual believes is deserving of the attention of the Committee.

(b) Any member of the general public may file a written request to bring up as new business an item that the person believes is deserving of the attention of the Committee. Such a request must be filed electronically with Office of Legislative Operations staff.

(c) Any new business brought up under this section shall be pursued and investigated by the Committee if a majority of the entire Committee approves of further inquiry.

(d) Committee staff shall prepare an agenda for each meeting in consultation with the Chair or Vice Chair.

§ 3. WITNESSES AND WRITTEN SUBMISSIONS

(a) Witnesses who are on the agenda will be permitted to testify. A witness for the agency proposing the rule is deemed to be on the agenda. A person whose name does not appear on the printed agenda may request to be on the agenda. A request to be on the agenda will be granted provided it is made ~~at least 48 hours~~ by 12:00 noon three business days in advance of the meeting at which the person wishes to testify.

(b) Notwithstanding the provisions of subsection (a) of this section, an untimely request to be on the agenda, or a request to testify after testimony has been closed, will be granted upon majority vote of the members present and voting.

(c) The Committee may refuse to hear repetitive oral testimony, and it may request that members of an organization designate a spokesperson for the purpose of testifying.

(d) Any person may submit written testimony on a rule that is before the Committee.

(e) When a rule is before the Committee, a person other than Committee staff submitting a

document for the Committee's consideration, including written testimony or recommended changes to the rule, shall comply with each of the following:

(1) The person shall submit the document to Committee staff or the document will not be considered as part of the Committee's review of the rule.

(2) The person shall submit the document ~~at least two business days~~ by 12 noon three business days in advance of the meeting at which the rule is to be considered. However, the Chair may grant an exception to the requirement for advance submission, or the Committee may grant such an exception upon majority vote of the members present and voting.

#### § 4. MOTIONS

(a) A motion does not require a second.

(b) Motions to object to a rule shall be in order only if made on the grounds set forth in:

(1) [3 V.S.A. § 842\(b\)](#) in the case of final proposed rules;

(2) [3 V.S.A. § 844\(e\)\(1\)](#) in the case of emergency rules;

(3) [3 V.S.A. § 844\(g\)](#) in the case of emergency amendments to existing rules; and

(4) [3 V.S.A. § 842\(b\)](#) in the case of existing rules, in accordance with the provisions of [3 V.S.A. § 817\(d\)](#).

(c) [Repealed.]

(d) A motion to object is in order whether or not an agency has been given opportunity to be heard at a consultation or meeting.

(e) A motion to object to a rule requires a majority vote of the entire Committee. The Committee staff shall promptly notify the sponsoring agency of the Committee's objection and request the agency to respond in writing to the Committee's objection within 14 days. After receipt of the agency's response, the Committee may withdraw or modify its objection.

(f) Once an objection has been made under [3 V.S.A. § 842\(b\)](#), the review period under [3 V.S.A. § 842\(a\)](#) shall cease to run until the agency notifies the Committee that it has cured the defect or that it does not intend to cure the defect and will proceed to adopt the rule without change.

(g) [Repealed.]

(h) If an objection based on the grounds described in subsection (b) of this section is not withdrawn after the agency responds, on majority vote of the entire Committee, the Committee may file the objection in certified form with the Secretary of State for purposes of [3 V.S.A. § 842\(c\)](#) or [844\(e\)](#). The objection letter shall contain a concise statement of the Committee's reasons for its action.

(i) Unless a motion otherwise provides:

(1) A vote to approve a rule also authorizes modifications of a technical and typographical nature.

(2) A vote to approve a rule with specific modifications also authorizes modifications of a technical and typographical nature and, if necessary, additional modifications consistent with those specifically approved.

## § 5. FILINGS

(a) An agency shall file its final proposed rule or emergency rule with the Committee by submitting it electronically to Office of Legislative Operations staff. A final proposed rule is not considered filed with the Committee unless it is accepted as a complete final proposed rule by the Office of Legislative Operations staff. A complete final proposal shall include all written comments submitted to the agency on the proposed rule. If identical written comments are submitted to the agency, then the agency may provide one copy of the written comment with

attribution to all of the persons who submitted the identical written comment. Documents accepted for filing for the benefit of the Committee shall be acknowledged promptly. Final proposed rules that fail to comply with the requirements of [3 V.S.A. § 833](#) or [838](#) or are illegible will not be accepted as complete and staff shall promptly return them to the agency with the reasons for rejection clearly stated in writing.

(b) Office of Legislative Operations staff shall distribute final proposed rules to the chairs of the appropriate standing committees, along with a notice that explains the Committee's schedule for taking action on the rule and the grounds under which the Committee may object to the rule and a questionnaire that solicits feedback from those chairs. Operations staff also shall distribute the same to the chairs of the House ~~and Senate Committees~~ Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations when the cover sheet accompanying the final proposed rule identifies a Public Records Act exemption in the rule. In addition, Operations staff shall distribute a final proposed rule and the notice of the Committee's schedule for taking action and grounds for objection to each member of an appropriate standing committee who requests a copy of the final proposed rule.

(c) A final proposed or adopted rule shall be considered to have been filed on the date it is received by the Office of Legislative Operations if the rule is received on or before 4:30 p.m. A rule received for filing after 4:30 p.m. will be considered to have been filed on the next workday.

(d) If an agency provides notice under [3 V.S.A. § 848](#) to the Committee, it shall do so as an electronic submission to Office of Legislative Operations staff. Office of Legislative Operations staff shall promptly acknowledge receipt of any such submission and distribute a copy to the Chair and Vice Chair and to Committee counsel. Such a submission shall not be treated as a request for action by the Committee and, consistent with 3 V.S.A. § 848(a), the Committee will

not take action if notified of a repeal by operation of law.

#### § 6. RULES BASED ON FEDERAL REQUIREMENTS

An agency that claims that its final proposed rule or emergency rule is required by federal law shall also file citations to and a summary or copy of such law. The summary shall be prepared by an attorney for the agency, or other person familiar with federal law, who shall be available to answer the Committee's questions about the provision of federal law that is the basis for the final proposed rule or emergency rule.

#### § 7. TIME LIMITATIONS

(a) The Committee has 45 days from the date on which a final proposed rule is properly filed with the Office of Legislative Operations in which to take action on the rule. This statutory limitation on the Committee's time for reviewing rules shall not apply if the agency agrees to waive or extend the review period. For purposes of computing the review period, the date that the rule is filed shall not be counted and the final day shall be counted.

(b) The Committee may, upon a majority vote of its members present and voting, extend the period for adoption of a rule under [3 V.S.A. § 843\(c\)](#). A proportionate extension will be granted automatically to an agency unable to meet the eight-month deadline because it granted the Committee a waiver of the review period. The Committee's action under this subsection will be certified to the Secretary of State.

#### § 8. PETITIONS; REFERRAL TO STANDING COMMITTEE

If the Committee determines that a petition to review an existing rule actually involves a problem with the administration of a rule or the underlying statute, the Committee may refer the matter to the appropriate standing committee for further investigation. Staff shall forward all supporting materials together with a summary of the Committee's concerns to the committee to

which the matter is referred.

#### § 9. SUSPENSION OF RULES

These procedural rules of the Committee may be suspended by an affirmative vote of a majority of the members present and voting.

#### § 10. AMENDMENT OF RULES

These procedural rules of the Committee may be amended by a majority vote of the members.

Adopted 8/14/02; revised 10/19/05, 11/28/07, 6/28/12, 6/11/15, 12/17/15, 1/14/21, 2/16/23