



## STATE OF VERMONT

### Legislative Committee on Administrative Rules (LCAR)

MEMO TO: Chairs, Standing Committees of Jurisdiction  
Jennifer Carbee, Director and Chief Counsel, Office of Legislative Counsel

CC: Speaker Jill Krowinski, Vermont House of Representatives  
President *Pro Tempore* Philip Baruth, Vermont Senate

FROM: Legislative Committee on Administrative Rules

DATE: January XX, 2023

SUBJECT: Delegation of Rulemaking; Legislative Intent

Under the Administrative Procedure Act, one of the limited grounds on which the Legislative Committee on Administrative Rules (LCAR) can object to a rule is if a majority of the members of LCAR determine that the rule is “contrary to the intent of the [General Assembly].” *See* 3 V.S.A. §§ [842\(b\)\(2\)](#) (permanent proposed rules) and [844\(e\)\(1\)\(B\)](#) (emergency rules); *see also* 3 V.S.A. § [817\(d\)](#) (existing rules).

Accordingly—and in conjunction with the statutory requirement that LCAR distribute a copy of a final proposed rule to “the chairs of the appropriate standing committees[,]” 3 V.S.A. § [841\(c\)\(1\)](#)—LCAR always solicits input from the chairs of standing committees of jurisdiction on whether or not a rule is consistent with the intent of the General Assembly. It is not uncommon for the initial, or even subsequent, legislation that delegates rulemaking to a State agency to predate the current chair of a standing committee of jurisdiction, which means that all parties involved are frequently best able to know the legislative intent of the General Assembly if such intent is included in legislation.

Therefore, as a constructive reminder, LCAR writes to highlight 2 V.S.A. § [205\(a\)](#), which states in relevant part:

Whenever a standing committee introduces or amends proposed legislation which delegates rulemaking authority to a State agency, the committee shall express in the legislation and, to the greatest extent possible, the intent of the legislation and the scope of the rulemaking authority being delegated.

We are asking all chairs of the standing committees of jurisdiction and attorneys within the Office of Legislative Counsel to be cognizant of the statutory requirements under 2 V.S.A. § 205(a) and the value that the inclusion of language indicating the intent of the General Assembly adds to LCAR’s review of rules on an ongoing basis.