

1       Sec. X. 3 V.S.A. § 844 is amended to read:

2       § 844. EMERGENCY RULES

3           (a) Where an agency believes that there exists an imminent peril to public  
4       health, safety, or welfare, it may adopt an emergency rule. The rule may be  
5       adopted without having been prefiled or filed in proposed or final proposed  
6       form, and may be adopted after whatever notice and hearing the agency finds  
7       to be practicable under the circumstances. The agency shall make reasonable  
8       efforts to ensure that emergency rules are known to persons who may be  
9       affected by them.

10          (b) Emergency rules adopted under this section shall not remain in effect  
11       for more than 180 days. An agency may propose a permanent rule on the same  
12       subject at the same time that it adopts an emergency rule.

13          (c) Emergency rules adopted under this section shall be filed with the  
14       Secretary of State and with the Legislative Committee on Administrative  
15       Rules. The Legislative Committee on Administrative Rules shall distribute  
16       copies of emergency rules to the appropriate standing committees.

17          (d) Emergency rules adopted under this section shall include:

18               (1) as much of the information required for the filing of a proposed rule  
19       as is practicable under the circumstances; and

1           (2) a signed and dated statement by the adopting authority explaining  
2           the nature of the imminent peril to the public health, safety, or welfare and  
3           approving of the contents of the rules.

4           (e)(1) On a majority vote of the entire Committee, the Committee may  
5           object under this subsection if an emergency rule is:

6                   (A) beyond the authority of the agency;

7                   (B) contrary to the intent of the Legislature;

8                   (C) arbitrary; or

9                   (D) not necessitated by an imminent peril to public health, safety, or  
10          welfare sufficient to justify adoption of an emergency rule.

11          (2) When objection is made under this subsection, on majority vote of  
12          the entire Committee, the Committee may file the objection in certified form  
13          with the Secretary of State. The objection shall contain a concise statement of  
14          the Committee's reasons for its action. The Secretary shall affix to each  
15          objection a certification of its filing and as soon as practicable transmit a copy  
16          to the agency. After a Committee objection is filed with the Secretary under  
17          this subsection, to the extent that the objection covers a rule or portion of a  
18          rule, the burden of proof thereafter shall be on the agency in any action for  
19          judicial review or for enforcement of the rule to establish that the part objected  
20          to is within the authority delegated to the agency, is consistent with the intent  
21          of the Legislature, is not arbitrary, and is justified by an imminent peril to the

1 public health, safety, or welfare. If the agency fails to meet its burden of proof,  
2 the court shall declare the whole or portion of the rule objected to invalid. The  
3 failure of the Committee to object to a rule is not an implied legislative  
4 authorization of its substantive or procedural lawfulness.

5 (3) When the Committee makes an objection to an emergency rule under  
6 this subsection, the agency may withdraw the rule to which an objection was  
7 made. Prior to withdrawal, the agency shall give notice to the Committee of its  
8 intent to withdraw the rule. A rule shall be withdrawn upon the filing of a  
9 notice of withdrawal with the Secretary of State and the Committee. If the  
10 emergency rule amended an existing rule, upon withdrawal of the emergency  
11 rule, the existing rule shall revert to its original form, as though the emergency  
12 rule had never been adopted.

13 (f) In response to an expressed concern of the Legislative Committee on  
14 Administrative Rules, an agency may make a germane change to an emergency  
15 rule that is approved by the Committee. A change under this subsection shall  
16 not be considered a newly adopted emergency rule and shall not extend the  
17 period during which the emergency rule remains in effect.

18 (g) In the alternative to the grounds specified in subsection (a) of this  
19 section, an agency may adopt emergency amendments to existing rules using  
20 the process set forth in this section if each of the subdivisions (1)-(5) of this  
21 subsection applies. On a majority vote of the entire Committee, the Legislative

1 Committee on Administrative Rules may object to the emergency amendments  
2 on the basis that one or more of these subdivisions do not apply or under  
3 subdivision (e)(1)(A), (B), or (C) of this section, or both.

4 (1) The existing rules implement a program controlled by federal statute  
5 or rule or by a multistate entity.

6 (2) The controlling federal statute or rule has been amended to require a  
7 change in the program or the multistate entity has made a change in the  
8 program that is to be implemented in all of the participating states.

9 (3) The controlling federal statute or rule or the multistate entity requires  
10 implementation of the change within 120 days or less.

11 (4) The adopting authority finds each of the following in writing:

12 (A) The agency cannot by the date required for implementation  
13 complete the final adoption of amended rules using the process set forth in  
14 sections 837 through 843 of this title.

15 (B) Failure to amend the rules by the date required for  
16 implementation would cause significant harm to the public health, safety, or  
17 welfare or significant financial loss to the State.

18 (5) On the date the emergency rule amendments are adopted pursuant to  
19 this subsection, the adopting authority profiles a corresponding permanent rule  
20 pursuant to section 837 of this title.

1       (h) In addition to the grounds for emergency rulemaking under subsections  
2       (a) and (g) of this section, an agency may adopt an emergency rule under this  
3       section if an amendment to a federal statute, rule, or policy will materially  
4       conflict with or threaten the ability of the Agency to implement a statutory or  
5       regulatory program required under Vermont law. On a majority vote of the  
6       entire Committee, the Legislative Committee on Administrative Rules may  
7       object to proposed emergency rules for adoption under this subsection on the  
8       basis that the provisions of this subsection do not apply.

9       Sec. Y. SUNSET

10       3 V.S.A. § 844(h), emergency rulemaking in response to federal action,  
11       shall be repealed on July 1, 2028.