FINAL PROPOSED RULE # 26-P027

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:

Prohibited Data and Design Practices

/s/ Charity R. Clark , on 10/19/2026
(signature) (date)

Printed Name and Title:
Charity R. Clark, Attorney General

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:
Prohibited Data and Design Practices

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
26P027

3. ADOPTING AGENCY:
Office of the Attorney General

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

Name: Sarah Jameson

Agency: Office of the Attorney General

Mailing Address: 109 State Street, Montpelier, VT 05609

Telephone: (802) 828-3170 Fax: (802) 828-2154

E-Mail: sarah.jameson@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:
https://ago.vermont.gov/vermont-age-appropriate-design-code-rulemaking

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: Todd Daloz

Agency: Office of the Attorney General

Mailing Address: 109 State Street, Montpelier, VT 05609

Telephone: (802) 585-5964 Fax: (802) 828-2154

E-Mail:

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).

9 V.S.A § 2449f(b)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:
   Act 63 directs the Attorney General to adopt rules implementing 9 V.S.A. § 2449f governing prohibited data processing and design practices affecting covered minors. This Rule implements that statutory directive by defining statutory terms, establishing standards governing prohibited data processing and design practices, and providing guidance regarding compliance with the requirements of § 2449f.
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**):
    This Rule implements 9 V.S.A. § 2449f of Act 63, an act relating to an age-appropriate design code. The Rule establishes standards governing prohibited data processing and design practices affecting covered minors, including practices that contribute to compulsive use, impair autonomy or decision-making, or otherwise violate the statutory requirements. The Rule provides definitions, interpretive standards, and illustrative examples to assist covered businesses in complying with the Act while maintaining flexibility regarding implementation. The Rule is intended to protect covered minors while providing regulated entities with greater clarity regarding their obligations under Vermont law.
15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Rule is necessary to implement the Attorney General's rulemaking responsibilities under Act 63 and to provide guidance regarding compliance with 9 V.S.A. § 2449f. The statute establishes general prohibitions governing data processing and design practices affecting covered minors and directs the Attorney General to adopt implementing rules. This Rule defines statutory terms, establishes objective interpretive standards, and provides guidance to promote consistent application and enforcement.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The Rule is not arbitrary because it is based on the statutory requirements of 9 V.S.A. § 2449f. The Rule implements the Legislature's directive by defining statutory terms, establishing objective interpretive standards, and providing illustrative examples to promote consistent application of the statute. The Rule is supported by research, industry practices, technological developments, and relevant judicial decisions addressing similar regulatory frameworks. Its provisions are rationally connected to the Legislature's findings and statutory objectives, employ technology-neutral and proportionate standards, and are designed to provide clear guidance to regulated entities while minimizing unnecessary burdens. Accordingly, the Rule has a factual basis, is rationally related to that factual basis, and would make sense to a reasonable person.

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

Affected people include covered minors and their families; affected enterprises include covered businesses that operate online services, products, or features reasonably likely to be accessed by covered minors; developers and operators of digital platforms and related service providers; and the Office of the Attorney General, which is responsible for administering and enforcing the Rule. Other governmental entities may be affected to the extent they coordinate with the Attorney General or are involved in enforcement or judicial review of the Rule.

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

Covered businesses may incur costs associated with reviewing existing products, services, and design practices for compliance with the Act, updating business practices where necessary, and implementing policies and procedures consistent with the Rule. The Rule is intended to minimize unnecessary compliance costs by adopting flexible, technology-neutral standards and by providing greater clarity regarding statutory requirements.

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: 9/9/2026
Time: 09:30 AM
Street Address: 109 State Street, Montpelier VT
Zip Code: 05609
URL for Virtual:

Date: 9/21/2026
Time: 09:30 AM
Street Address: 118 Prospect Street, White River Junction VT
Zip Code: 05001
URL for Virtual:

Date: 9/23/2026
Time: 05:00 PM
Street Address: 5376 Shelburne Rd, Shelburne VT
Zip Code: 05482
URL for Virtual: https://www.youtube.com/watch?v=sM1y8bR9zjA

Date:
Time: AM

Street Address:

Zip Code:

URL for Virtual:

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

    10/2/2026

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

Addictive feeds

Prohibited data and design

Data processing

Design practices

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:
   Prohibited Data and Design Practices
2. ADOPTING AGENCY:
   Office of the Attorney General
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 **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE)*:

Interagency Committee on Administrative Rules (ICAR) Minutes

Date/Time: July 13, 2026, 2:00 PM

Location: Virtually via Microsoft Teams

Members Present: Chair Nick Kramer, Heidi Moreau, Patrick Murphy, Earl Fechter, John Kessler, Russ McCracken, Stephen Brown, Jennifer Mojo

Members Absent: n/a

Minutes By: Chrissy Gilhuly

- 2:00 p.m. meeting called to order.
- Review and approval of minutes from the June 8, 2026, meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules with recommended changes on pages to follow.

1. Agency of Natural Resources: Department of Forests Parks and Recreation (ANR-FPR) – Rules Governing the Activity of Primitive Camping on State Forest and State Park Lands
   - The Primitive Camping Rule governs how the public can camp in a primitive manner on state lands, without paying a fee or benefiting from infrastructure or services. The rule was first promulgated in 1993. Over the last 30+ years, primitive camping practices in Vermont have evolved, creating challenges that the current rule is not well equipped to regulate, specifically around rule enforcement, campfires and wildland fire risk, and jurisdiction of the rule across state lands managed by FPR, F&W, and DEC.

2. Agency of Human Services: Department of Health (AHS-VDH) – Birth Center Licensing Rule
   a. This rule sets forth the standards that apply to the licensing of birth centers in Vermont. This rulemaking establishes the process by which a birth center can apply for a license in Vermont.

3. Agency of Human Services: Department for Children and Families (AHS-DCF) – Rules for Afterschool Childcare Programs
   a. The amended rule reorganizes, renumbers, and replaces the existing rule, which governs the licensing and operation of afterschool child care

programs (ASP). Among other things, the rule governs the licensing process, the administration and operation of ASPs, and employee qualifications. The rule also contains several provisions governing health, safety, and nutrition. Furthermore, the rule addresses parent visits and notifications.

4. Agency of Human Services: Department for Children and Families (AHS-DCF) – Rules for Center Based Child Care and Preschool Programs
    a. The amended rule reorganizes, renumbers, and replaces the existing rule, which governs the licensing and operation of center based childcare and preschool programs (CBCCPP). Among other things, the rule governs the licensing process, the administration and operation of CBCCPPs, and employee qualifications. The rule also contains several provisions governing health, safety, and nutrition. Furthermore, the rule addresses parent visits and notifications.

5. Agency of Natural Resources: Department of Fish and Wildlife (ANR-DFW) - 10 App. V.S.A. § 7 Bear Management Rule
    a. The proposed rule amendments eliminate the consecutive "early" and "late" seasons to create one bear season extending from September 1st through the last day of the regulated deer season. The proposed rule would require the purchase of a bear tag to take a bear during the season and would allow for the taking of a second bear within specified Wildlife Management Units (WMU) upon Board approval. The rule prohibits the intentional taking of sows with cubs. Additionally, the rule clarifies bear dog permit requirements and makes technical and grammatical corrections.

6. Office of the Attorney General – Prohibited Data and Design Products
    a. This Rule implements 9 V.S.A. § 2449f of Act 63, an act relating to an age-appropriate design code. The Rule establishes standards governing prohibited data processing and design practices affecting covered minors, including practices that contribute to compulsive use, impair autonomy or decision-making, or otherwise violate statutory requirements. The Rule provides definitions, interpretive standards, rebuttable presumptions, and illustrative examples to assist covered businesses in complying with the Act while maintaining flexibility regarding implementation. The Rule is intended to protect covered minors while providing regulated entities with greater clarity regarding their obligations under Vermont law.

7. Office of the Attorney General – Age Assurance Privacy
    a. This Rule implements 9 V.S.A. § 2449g of the Vermont Age-Appropriate Design Code Act. The Rule establishes standards governing age assurance for covered minors, including requirements relating to selection of age assurance methods, graduated escalation, proportionality, data minimization, accuracy, privacy protections, fallback mechanisms, appeals, and compliance. The Rule emphasizes flexible, technology-

neutral approaches that require covered businesses to use the least intrusive age assurance process or technique reasonably available while protecting the privacy of covered minors. The Rule also establishes standards governing the collection, retention, use, and disclosure of age assurance data and provides guidance to assist covered businesses in complying with the statutory requirements of 9 V.S.A. § 2449g.

- Next scheduled meeting is August 10, 2026, at 2:00 p.m.
- 3:52 p.m. meeting adjourned.

To receive this information in an alternative format or for other accessibility requests, please contact:

Agency of Administration
ADM.Secretary@vermont.gov, 802-828-3322

DRAFT

Proposed Rule: Agency of Natural Resources: Department of Forests Parks and Recreation (ANR-FPR) – Rules Governing the Activity of Primitive Camping on State Forest and State Park Lands

Presented By: Oliver Pierson, Director of Forestry

Motion made to accept the rule by Stephen Brown, seconded by Earl Fechter, and passed unanimously, except for Jennifer Mojo, who abstained, with the following recommendations:

1) **Cover Sheet**
    a. #8: Spell out acronyms
    b. #11: Correct spelling of the word ‘primitive’

2) **Economic Impact Analysis**
    a. #3: Consider adding costs and benefits to this section

DRAFT

Proposed Rule: Agency of Human Services: Department of Health (AHS-VDH) – Birth Center Licensing Rule

Presented By: Meg McCarthy, Policy Advisor

Motion made to accept the rule by Russ McCracken, seconded by Patrick Murphy, and passed unanimously, except for Heidi Moreau, who abstained, with the following recommendations:

1) **Cover Sheet**
    a. #16: Keywords, 'labor' appears twice

DRAFT

Proposed Rule: Agency of Human Services: Department for Children and Families (AHS-DCF) – Rules for Afterschool Childcare Programs

Presented By: Philip Back, Attorney and Beth Maurer, Director of Licensing

Motion made to accept the rule by Patrick Murphy, seconded by Stephen Brown, and passed unanimously, except for Heidi Moreau, who abstained.

DRAFT

Proposed Rule: Agency of Human Services: Department for Children and Families (AHS-DCF) – Rules for Center Based Child Care and Preschool Programs

Presented By: Philip Back, Attorney and Beth Maurer, Director of Licensing

Motion made to accept the rule by Russ McCracken, seconded by Patrick Murphy, and passed unanimously, except for Heidi Moreau, who abstained, with the following recommendations:

1) **Cover Sheet**
    a. #12: Explain impact about lost subsidy payments to providers. General statement about what would be lost.
2) **Economic Impact**
    a. #8: Add something about radon; positive impact

DRAFT

Proposed Rule: Agency of Natural Resources: Department of Fish and Wildlife (ANR-DFW) - 10 App. V.S.A. § 7 Bear Management Rule

Presented By: Hannah Smith, General Counsel and Jackie Comeau, Bear Project Leader

Motion made to accept the rule by Heidi Moreau, seconded by Stephen Brown, and passed unanimously, except for Heidi Jennifer Mojo, who abstained, with the following recommendations:

1) **Cover Sheet**
    a. #7: Small typo, extra to in quoted language

2) **Environmental Impact**
    b. #6: Small typo, the ‘g’ and ‘n’ are reversed in the word ‘hunting’
    c. #8: Include positive impact to the bear population

3) **Public Input Maximization Plan**
    a. #3: Small typo, extra ‘n’
    b. Dates for at least two public hearings will be added prior to filing with the Secretary of State

DRAFT

Proposed Rule: Office of the Attorney General – Prohibited Data and Design Products

Presented By: Sarah Aceves, Assistant Attorney General, Public Protection Division

Motion made to accept the rule by John Kessler, seconded by Jennifer Mojo, and passed unanimously, with the following recommendations:

1) **Proposed Cover Filing Sheet**
   a. Add Charity Clark's title
   b. #4: Include a secondary contact person
   c. #8: Insert the date of 2025 for Act 63
   d. #16: Add keywords

2) **Public Input Maximization Plan**
   a. There will be two public hearings, possibly three, that will be scheduled imminently

DRAFT

Proposed Rule: Office of the Attorney General – Age Assurance Privacy

Presented By: Sarah Aceves, Assistant Attorney General, Public Protection Division

Motion made to accept the rule by Russ McCracken, seconded by Earl Fechter, and passed unanimously, with the following recommendations:

1) **Proposed Cover Filing Sheet**
   a. Add Charity Clark's title
   b. #4: Include a secondary contact person
   c. #8: Insert the date of 2025 for Act 63
   d. #8: State up front what age assurance does
   d. #16: Add keywords

2) **Public Input Maximization Plan**
   a. There will be two public hearings, possibly three, that will be scheduled imminently

DRAFT

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:

   Prohibited Data and Design Practices

2. ADOPTING AGENCY:

   Office of the Attorney General

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:

   The Rule primarily affects covered businesses that operate online services, products, or features reasonably likely to be accessed by covered minors; third-party providers of age assurance, identity credential, and privacy-preserving verification services; covered minors and their families; and the Office of the Attorney General. Because the Rule

primarily implements and clarifies statutory requirements established by Act 63, many compliance obligations arise from the statute itself rather than this Rule.

Covered businesses may incur administrative costs associated with evaluating existing age assurance practices; reviewing available age assurance processes and techniques; updating policies, procedures, and employee training; modifying systems to implement proportionate, privacy-protective age assurance; and documenting compliance with the Rule. Businesses already subject to similar requirements in other jurisdictions may incur lower incremental compliance costs by relying on existing compliance programs and technologies. Third-party providers of age assurance and related services may incur costs to update products or services to meet customer needs but may also benefit from increased demand for privacy-preserving age assurance technologies and compliance services.

Covered minors and their families are not expected to incur direct compliance costs and are expected to benefit from greater privacy protections, more proportionate age assurance practices, and clearer mechanisms for correcting inaccurate age determinations.

The Office of the Attorney General may incur costs associated with implementation, education, guidance, investigations, and enforcement using existing personnel and appropriated resources. The Office does not possess sufficient information to estimate statewide dollar costs because costs will vary depending on the size of the covered business, the nature of its online services, the age assurance methods selected, and existing compliance infrastructure.

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 Rule is not expected to have a direct economic impact on public education, public schools, local school districts and/or taxpayers. The Rule implements statutory requirements applicable to covered businesses that operate online services, products, or features reasonably likely to be accessed by covered minors and does not impose compliance obligations on educational institutions. Accordingly, the Rule is not expected to require schools to implement new programs, purchase technology or services, modify educational practices, or incur additional compliance costs.

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*.

   See above.

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):

   Small businesses that qualify as covered businesses under Act 63 may incur administrative costs associated with evaluating existing age assurance practices; reviewing available age assurance processes and techniques; updating internal policies and procedures; training employees; and implementing operational changes necessary to comply with the Rule. Some small businesses may also incur costs if they elect to use third-party age assurance providers or commercially available compliance tools. Small businesses that already comply with comparable requirements in other jurisdictions may incur lower incremental compliance costs by relying on existing compliance programs and technologies. The Rule is designed to minimize burdens by adopting flexible, technology-neutral, and proportionate standards that do not require the use of any specific technology, vendor, or age assurance method. Because the Rule primarily provides definitions, interpretive standards, and implementation guidance for statutory requirements established by Act 63, the Office concluded that creating separate

substantive requirements for small businesses would not be appropriate. The Office cannot reasonably estimate the number of affected small businesses or associated compliance costs because those costs will vary depending on the size of the business, the nature of its online services, the age assurance methods selected, and existing compliance practices.

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 Rule is designed to minimize compliance burdens on small businesses by providing clarity and flexibility in implementing the statutory requirements of Act 63. Rather than categorically prohibiting particular design features or prescribing specific technical solutions, the Rule generally establishes effects-based standards that allow businesses to evaluate their existing practices and determine appropriate methods of compliance. The Rule also clarifies the circumstances in which particular data and design practices are prohibited, thereby reducing uncertainty for regulated businesses. In developing the final proposed Rule, the Office of the Attorney General narrowed several provisions and removed proposed independent assessment, testing, and documentation requirements that could have imposed additional compliance burdens, particularly on small businesses. Businesses may also be able to incorporate compliance measures into existing privacy, product-design, and legal compliance processes. Because the Rule implements statutory protections established by Act 63, the Office determined that separate substantive standards or exemptions for small businesses would not be appropriate, as doing so could undermine consistent application of the protections established by the Legislature.

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 Office of the Attorney General considered alternatives to the proposed Rule, including adopting

no rule, adopting more prescriptive restrictions on particular data and design practices, imposing additional compliance assessment and documentation requirements, and establishing separate compliance standards for small businesses.

Adopting no rule would not satisfy the Attorney General's statutory rulemaking obligations under Act 63 and would leave covered businesses without additional definitions and interpretive guidance concerning the statute's restrictions on data and design practices.

The Office also considered more prescriptive approaches that would categorically prohibit certain design features or prescribe specific technical modifications. The Office determined that such approaches could impose unnecessary compliance costs by restricting practices that do not produce the harmful effects identified in the statute or by requiring modifications that may not be appropriate for all covered services.

The Office further considered requiring businesses to conduct independent assessments, testing, or documentation of potentially prohibited practices. Although such requirements could provide additional information concerning compliance, the Office removed those proposed obligations from the final proposed Rule to avoid imposing administrative burdens beyond those necessary to implement the statute.

Instead, the final proposed Rule generally employs effects-based standards that clarify when particular practices constitute prohibited conduct while allowing businesses flexibility in determining how to comply. The Rule also provides interpretive guidance concerning statutory prohibitions that apply independently of an effects-based inquiry. Finally, the Office considered whether separate substantive requirements for small businesses would be appropriate but concluded that such an approach could be inconsistent with the statutory framework established by Act 63. The final proposed Rule instead seeks to minimize unnecessary compliance burdens for businesses of all sizes while maintaining consistent statutory protections for covered minors.

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

The Office of the Attorney General conducted this analysis through review of Act 63, its legislative findings, and the statutory requirements of 9 V.S.A. § 2449f. The Office also reviewed comparable laws, regulations, and guidance adopted or proposed in other jurisdictions concerning online design practices, protections for minors, and the use of personal data; relevant judicial decisions addressing similar statutory frameworks; publicly available research and guidance concerning potentially harmful online design practices, compulsive use, and user autonomy; and other publicly available materials relevant to implementation of the statute. The proposed Rule was developed through multiple rounds of internal review by attorneys within the Office of the Attorney General, including consultation with the Attorney General and Solicitor General, and was revised to ensure consistency with the statutory text, current legal developments, and the objectives of Act 63. The Office also considered written comments and testimony received during the public-comment period and made revisions to clarify the scope of prohibited practices, provide greater flexibility in compliance, and avoid unnecessary administrative burdens. The Office determined that the information available was sufficient to evaluate the Rule's reasonably foreseeable economic effects and to compare alternative regulatory approaches. However, the Office recognizes that the costs of compliance will vary depending on a business's existing data and design practices, technical infrastructure, and the modifications, if any, necessary to comply. The available information does not permit a reliable statewide estimate of those costs, particularly because some compliance obligations arise directly from Act 63 rather than from the Rule itself.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

---

1. TITLE OF RULE FILING:
   Prohibited Data and Design Practices
2. ADOPTING AGENCY:
   Office of the Attorney General
3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
   No impact anticipated.
4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
   No impact anticipated.
5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
   No impact anticipated.
6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
   No impact anticipated.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
   No impact anticipated.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
   No impact anticipated.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
   The Office of the Attorney General conducted this analysis by reviewing the final proposed Rule, Act 63, and the statutory requirements of 9 V.S.A. § 2449f to determine whether the Rule would require activities with reasonably foreseeable environmental effects. The Office evaluated the Rule's requirements concerning prohibited data and design practices, including restrictions on certain uses of personal data and online service features, and concluded that the Rule primarily governs the operation and design of online services rather than requiring construction, physical infrastructure, land use changes, manufacturing, or other activities that would reasonably be expected to affect natural resources, air, or water. Although compliance may require some businesses to modify software or data-processing practices, the Office did not identify a basis for concluding that such modifications would result in significant environmental impacts. The analysis was based on the text of the final proposed Rule, the governing statute, and the Office's understanding of the Rule's implementation.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

---

1. TITLE OF RULE FILING:

   Prohibited Data and Design Practices

2. ADOPTING AGENCY:

   Office of the Attorney General

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   Before filing the proposed rule, the Vermont Attorney General's Office (AGO) developed the proposal through internal legal review, including consideration of Act 63 of 2025, its statutory requirements and legislative findings, relevant legal and regulatory approaches, and available technical and policy information. The AGO did not circulate a draft outside the Office before the formal rulemaking process.

   Following the proposed filing, the Secretary of State carried out its established rulemaking notice procedures. The AGO made rulemaking information available on its website, including information concerning the opportunity to participate in public hearings and submit written comments. The AGO held three public hearings on September 9, September 21, and September 23, 2026, and accepted written comments through October 2, 2026. The AGO's public-comment webpage makes the written submissions available to the public.

At the first hearing, a representative of WCAX asked a question. At the second hearing, a member of the Vermont Senate asked questions concerning the rulemaking process. At the third hearing, representatives of industry and other interested organizations provided brief oral presentations previewing issues addressed more fully in subsequent written comments. The AGO thanked speakers for their participation without providing substantive responses or committing to specific revisions during the hearings. The accompanying synopsis of oral comments provides additional information about the hearing participation.

The AGO reviewed and considered the written comments in preparing the final proposed rule. The accompanying responsiveness summary identifies substantial arguments raised during the comment period and explains the AGO's decisions to adopt, modify, or decline proposed changes. The separate letter explaining changes describes revisions to the proposed rule on a section-by-section basis.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Before publication of the proposal, attorneys within the AGO, including the Attorney General and Solicitor General, participated in the internal review and development process.

During the public comment process, participants included Senator Wendy Harris, who asked procedural questions at the second hearing, and the following speakers at the third hearing: Kyle Sepe of the Computer & Communications Industry Association (CCIA); Amy Bos of NetChoice; Abigail Wilson of the Software & Information Industry Association (SIIA); and Jason Van Driesche of Front Porch Forum. A representative from WCAX asked a question at the first hearing. The AGO also received written submissions from individuals and organizations identified in the accompanying written-comment record. Those submissions reflect participation by affected businesses and trade associations, privacy

and consumer advocates, child-safety advocates, and other interested persons.

The AGO made the public participation opportunities available through the formal notice process and its rulemaking website.

CHARITY R. CLARK
ATTORNEY GENERAL

TEL: (802) 828-3171

www.ago.vermont.gov

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

October 19, 2026

VIA E-MAIL

To: Vermont Secretary of State and Legislative Committee on Administrative Rules

Re: Explanation of changes to the proposed rule under 9 V.S.A. § 2449f

The Vermont Attorney General (AGO) submits this explanation of changes made between the July 2026 proposed rule and the final proposed rule. The AGO considered public comments and further reviewed the proposal for statutory consistency, clarity, administrability, and protection of covered minors. The accompanying annotated rule provides the complete textual comparison. This letter describes the principal changes, section by section, their purpose, and their relationship to the statutory authority.

I. Definitions

The AGO revised and consolidated defined terms, removed definitions associated with provisions no longer retained, and clarified the distinction between behavioral data and inferred preferences. The revised definitions are intended to make the rule more predictable and to preserve the significance of the express-request exception in 9 V.S.A. § 2449f(a)(4), without turning general engagement history into affirmative consent.

II. Applicability

The AGO removed the proposed independent "knows or has reason to know" trigger and aligned the applicability language with the statutory concepts of covered business and covered minor in 9 V.S.A. § 2449a. The revision avoids establishing a separate constructive-knowledge standard through this rule and preserves the distinct statutory inquiry into whether an online service, product, or feature is reasonably likely to be accessed by a minor.

III. General Prohibition

The former "General Duty" section was replaced by a "General Prohibition" expressly tied to the effects identified in 9 V.S.A. § 2449f(b): practices leading to compulsive use or subverting or impairing user autonomy, decision making, or choice. The AGO made this change to avoid suggesting an open-ended duty of care or a prohibition based solely on increased engagement.

The provision continues to implement the Legislature's express delegation to prohibit qualifying data-processing and design practices.

IV. Foreseeability

The AGO reframed foreseeability as an evidentiary consideration, identifying information that may bear on whether the effects of a practice were reasonably foreseeable, including the business's own information and relevant industry knowledge. The final language states that this section does not independently require testing, a risk assessment, documentation, or safeguards and that engagement alone is insufficient. This separates possible evidence of a statutory violation from new affirmative compliance duties not specified in 9 V.S.A. § 2449f(b).

V. Deleted sections: Data Minimization, Secondary Use, Monitoring and Tracking, and Personalized Media

The AGO removed these stand-alone sections from the proposed rule. Their deletion does not repeal, modify, or waive the independently operative restrictions and exceptions established by the Legislature in 9 V.S.A. § 2449f(a). The AGO concluded that reproducing or expanding those statutory requirements in separate regulatory sections risked creating uncertainty about whether the rule imposed additional restrictions beyond the text of the statute. The final rule instead focuses on the practices and effects within the specific rulemaking authority of § 2449f(b).

VI. Compulsive Use

The AGO clarified that compulsive use requires the statutory nexus to material disruption of major life activities, as defined in 9 V.S.A. § 2449a, and revised the evidentiary considerations accordingly. The final language makes clear that no single engagement indicator alone establishes a violation. The change distinguishes ordinary use or popularity from the material effects addressed by the statute.

VII. Impairment of Autonomy

The AGO refined this provision to focus on material steering, pressure, manipulation, obstruction, or asymmetrical friction that meaningfully impairs choice. The final rule also explains that a difference in the number of interface steps, without more, is insufficient. The purpose is to implement the autonomy, decision-making, and choice language of 9 V.S.A. § 2449f(b) without treating every design difference as unlawful.

VIII. Prohibited Practices

The AGO clarified the relationship between the general statutory-effects standard and the more specific design-practice provisions. Except where a separate prohibition appears in 9 V.S.A. § 2449f(a), the enumerated practices are interpreted in light of the effects specified by § 2449f(b). This prevents the examples from becoming per se bans detached from the Legislature's operative standard.

IX. Asymmetrical Interfaces

The AGO narrowed the provision to interface designs that meaningfully impair a covered minor's ability to disengage or exercise choice, rather than treating unequal numbers of clicks or

steps as sufficient. The change implements the autonomy component of § 2449f(b) while allowing ordinary variations in interface design.

X. Autoplay

The AGO clarified that autoplay is not prohibited merely because content begins automatically. The prohibition depends on the statutory compulsive-use or autonomy effects. This makes the provision more sensitive to different contexts, including ordinary content playback, while retaining authority over harmful deployment of the feature. 9 V.S.A. § 2449f(b).

XI. Behavioral Recommendation System

The AGO retained a restriction on using personal data, behavioral data, or inferred preferences to select, recommend, rank, order, prioritize, or sequence media for a covered minor, but expressly tied it to the statutory prohibition and exceptions in 9 V.S.A. § 2449f(a)(4). The revision is intended to avoid implying that the rule eliminates statutory exceptions for qualifying requests and other permitted functions. Unlike the effects-based design provisions, this section implements a distinct express statutory restriction.

XII. Continuous Media Feeds

The AGO revised the provision so continuous scrolling or a feed format alone is not sufficient; the practice must produce the effects described in § 2449f(b). The change avoids treating a common interface format as inherently unlawful and directs attention to its operation and impact.

XIII. Engagement-Based Notifications

The AGO narrowed the notification provision to the prohibited statutory effects and clarified that ordinary, transactional, safety-related, or affirmatively requested communications are not prohibited merely because they notify a user. The change distinguishes coercive re-engagement design from communications that serve a user-directed or service-related function. 9 V.S.A. § 2449f(b).

XIV. Push Notifications

The AGO clarified the separate operation of the statute's express overnight notification restriction, 9 V.S.A. § 2449f(a)(5), and the effects-based rulemaking authority in § 2449f(b). Outside the statutory time-based prohibition, the regulatory provision does not prohibit a push notification solely because it is delivered; the specified harmful effects remain necessary.

XV. Reinforcement Mechanisms

The AGO narrowed the provision concerning variable or intermittent rewards to the statutory effects and clarified that ordinary game progression or rewards are not prohibited simply because they use such mechanics. The revision addresses concern that commonplace features could otherwise be read as automatically unlawful. 9 V.S.A. § 2449f(b).

XVI. Social Pressure Features

The AGO revised this section to focus on features that materially pressure continued or resumed use or impair disengagement, and clarified that ordinary social interaction or information about others' activity does not alone establish a violation. This aligns the provision with the effects specified in § 2449f(b).

XVII. Illustrative Examples and Illustrative Applications

The AGO removed or consolidated duplicative illustrative material and eliminated the separate "Illustrative Applications" section from the original proposal. The purpose was to avoid examples being misconstrued as independent prohibitions or expanding the operative text. The annotated comparison identifies the precise deletions.

XVIII. Circumvention

The AGO revised circumvention so that a modified or substitute practice is prohibited only if it itself violates an operative rule prohibition. This removes the potential for a freestanding intent-based offense based on a practice's similarity to another feature. The revision keeps enforcement tied to 9 V.S.A. § 2449f and the final rule's substantive requirements.

XIX. Severability

The AGO added a severability provision to clarify that the invalidity of one provision need not affect independently operative provisions. This is a structural clarification and does not enlarge the substantive obligations.

The changes described above are intended to clarify the operative standards, conform the rule to the enabling statute, and respond to implementation and interpretive issues identified during the rulemaking. This letter describes the principal substantive changes – the annotated comparison should be consulted for all additions, deletions, and editorial revisions. The AGO's separate responsiveness summary explains how public comments were considered.

Sincerely,

/s/ Sarah L. Jameson
Sarah L. Jameson
Assistant Attorney General
Consumer Protection and Antitrust Unit
Office of the Attorney General

Synopsis of Oral Comments Received

Final Proposed Rule: Prohibited Data and Design Practices

I. Statutory authority: 9 V.S.A. § 2449f

The Vermont Attorney General's Office (AGO) held three public hearings during the proposed-rule comment period. This synopsis describes the oral participation during all three hearings.

II. First public hearing, 9/9/2026, Montpelier

A representative of WCAX asked a question. No substantive position on the proposed rule is attributed to that participant in this synopsis.

III. Second public hearing, 9/21/2026, White River Junction

Senator Wendy Harris asked questions concerning the rulemaking process. These were procedural questions rather than substantive comments advocating changes to the proposed rule.

IV. Third public hearing, 9/23/2026, Shelburne

The following individuals spoke at the third public hearing:

- Kyle Sepe — Computer & Communications Industry Association (CCIA)
- Amy Bos — NetChoice
- Abigail Wilson — Software & Information Industry Association (SIIA)
- Jason Van Driesche — Front Porch Forum (FPF)

The speakers offered abbreviated accounts of concerns or recommendations subsequently addressed in their organizations' written comments. The written submissions provide the detailed statements of those organizations' positions, and the AGO's accompanying responsiveness summary addresses the substantial arguments relevant to this rule.

At the hearings, the AGO thanked commenters for their input. The AGO did not offer substantive responses or make commitments to particular changes during the hearings.

V. Treatment of comments

The AGO considered the public comments in developing the final proposed rule. The separate responsiveness summary identifies substantial arguments for and against the proposal and explains the AGO's reasons for adopting, modifying, or declining proposed changes. This synopsis is intended to supplement, not replace, the copies of written submissions and the responsiveness summary in the final-proposal filing.

Responsiveness Summary

§ 2449f — Prohibited Data and Design Practices | Final proposed rule | October 19, 2026

I. Introduction and approach

The Vermont Attorney General (AGO) considered the written public comments submitted concerning the July 2026 proposed rule. This summary groups substantial arguments by issue, identifies commenters whose submissions raise each issue, and explains the AGO's disposition, including where the final proposed rule was revised and where a requested change was not adopted. References to the final proposed rule identify the corresponding titled provisions; the annotated rule separately shows revisions to the July proposal.

The AGO has considered both comments favoring stronger protections and comments requesting narrower or more flexible requirements. The AGO does not treat the absence of an individual response to every sentence of a submission as a rejection of that submission; the responses below address the material issues raised.

II. Applicability / nexus to § 2449f(b)

Comments: Argue the rule extends beyond practices that lead to compulsive use or subvert or impair autonomy, decision-making, or choice; some object to applicability language keyed to a service 'used by' a covered minor. (NetChoice, p. 2; CCIA, p. 3; MPA, p. 4; SIIA, p. 1.)

Response: The AGO agrees that the final proposed rule should clearly reflect the scope of § 2449f(b) and has revised the applicability language accordingly. The AGO does not agree that § 2449f(b) bars regulation of data-processing or design practices; the statute expressly directs the Attorney General to prohibit such practices when they produce the specified effects. *See* 9 V.S.A. §§ 2449a, 2449f(b).

III. Covered minor / knowledge standard

Comments: Argue draft language creates constructive knowledge ('reason to know'/similar) inconsistent with statutory actual-knowledge or age-assurance framework. (SIIA, p. 1; TechNet, p. 2.)

Response: The AGO agrees that the rule should not alter the statutory definition of covered minor and has revised the language to track Act 63. The statute separately addresses which businesses are covered based on whether their products, services, or features are reasonably likely to be accessed by minors. *See* 9 V.S.A. § 2449a; final proposed rule, Applicability.

IV. Compulsive use — engagement alone

Comments: Industry argues increased engagement or prolonged use is not necessarily compulsive use. Behavior analyst independently notes that longer sessions alone do not

establish the statutory material-disruption element. (NetChoice, p. 1; CCIA, p. 3; MPA, p. 2; SIIA, p. 1.)

Response: The AGO agrees that increased engagement, standing alone, does not establish compulsive use. The final proposed rule clarifies that engagement-related evidence must be considered in context and does not displace the statutory definition. *See* 9 V.S.A. §§ 2449a, 2449f(b); final proposed rule, Compulsive Use and Foreseeability.

V. Compulsive use — performance-based analysis

Comments: Recommend focusing on the business-controlled design mechanism, user action, and resulting effect rather than treating labels such as 'reward' or the presence of variability as dispositive. (NetChoice, p. 1; CIVITERA, p. 1; MAMA, p. 2.)

Response: The AGO agrees that the relevant inquiry is how a data-processing or design practice operates and its reasonably foreseeable effects, rather than the label attached to a feature. The final proposed rule has been clarified accordingly. *See* 9 V.S.A. §§ 2449a, 2449f(b); final proposed rule, Compulsive Use and Foreseeability.

VI. Variable or intermittent rewards / ordinary gameplay

Comments: Argue scores, levels, badges, achievements, fixed chore rewards, and ordinary game progression could be swept into the prohibition; request safe harbors or narrower language. (ESA, p. 2; Internet Works, p. 3.)

Response: The AGO agrees that ordinary gameplay rewards and fixed rewards are not inherently prohibited. The final proposed rule clarifies that the analysis turns on how the mechanism is designed and operates, including whether it is used to extend or induce re-engagement in a manner that leads to compulsive use or impairs autonomy. *See* 9 V.S.A. § 2449f(b); final proposed rule, Reinforcement Mechanisms.

VII. Infinite scroll / stopping cues

Comments: Some commenters warn against treating ordinary scrolling as consent to continued delivery; supportive comments favor meaningful stopping points and friction. (CCIA, p. 4; SIIA, p. 2.)

Response: The AGO declines to treat ordinary scrolling as an affirmative request for indefinite continuation. The rule is clarified to distinguish ordinary scrolling from a discrete and intentional user action while preserving flexibility in interface design. *See* 9 V.S.A. § 2449f(b); final proposed rule, Continuous Media Feeds.

VIII. Autoplay / automatic continuation

Comments: Industry warns that autoplay/continuation can be ordinary streaming/game functionality; others identify automatic continuation as a compulsive-design mechanism. (MPA, p. 8.)

Response: The AGO declines to categorically exempt autoplay or automatic continuation. The final proposed rule makes clear that the presence of such a feature alone does not establish a violation; the inquiry concerns its design and reasonably foreseeable effects under § 2449f(b). *See* 9 V.S.A. § 2449f(b); final proposed rule, Autoplay.

IX. Personalized media / recommendations

Comments: Argue draft restrictions impair beneficial personalization, catalog navigation, education, 'continue watching,' and editorial discretion; seek broader exceptions. (NetChoice, p. 4; CCIA, p. 7; MPA, p. 4; SIIA, p. 1.)

Response: The AGO agrees that the rule should not prohibit functionality expressly permitted by Act 63 and has clarified the treatment of user requests and settings. The AGO declines to create broader exceptions that would conflict with § 2449f(a)(4). *See* 9 V.S.A. § 2449f(a)(4); final proposed rule, Behavioral Recommendation System.

X. Necessary to provide service

Comments: Seek clarification that security, fraud prevention, accessibility, integrity, debugging, reliability, and certain administrative/technical functions can be necessary. (CCIA, p. 5; MPA, p. 4; SIIA, p. 1; FPF, p. 2.)

Response: The AGO agrees that certain safety, security, accessibility, and operational functions may be necessary to provide a requested service. The final proposed rule clarifies this point while preserving the statute's necessity limitation. *See* 9 V.S.A. § 2449f(a)(1); final proposed rule, General Prohibition.

XI. Secondary use

Comments: Argue draft definition sweeps more broadly than § 2449f(a)(2), including profiling, recommendations, advertising, model training, or analytics regardless of original purpose. (NetChoice, p. 4; CCIA, p. 15; SIIA, p. 2; FPF, p. 4.)

Response: The AGO agrees that the rule must remain tied to the statutory original-purpose limitation. The final proposed rule has been revised to clarify that examples do not displace the statutory inquiry into the purpose for which the data was collected. See 9 V.S.A. § 2449f(a)(2); final proposed rule, General Prohibition.

Final-text clarification: The final proposed rule omits the previously proposed standalone Data Minimization, Secondary Use, and Monitoring and Tracking sections. The statutory requirements remain independently applicable; the final proposed rule does not purport to amend them.

XII. Data retention for recommendations / analytics

Comments: Argue separate retention language can prohibit data needed for permitted recommendations, adaptive functions, analytics, safety, security, integrity, reliability, or accessibility. (CCIA, p. 2; MPA, p. 2; SIIA, p. 1; FPF, p. 7.)

Response: The AGO agrees that the rule should not prohibit retention that is permitted by § 2449f(a)(1). The final proposed rule is clarified to align the retention standard with the statute while retaining limits on unnecessary uses. *See* 9 V.S.A. § 2449f(a)(1)–(2); final proposed rule, General Prohibition.

Final-text clarification: The final proposed rule omits the previously proposed standalone Data Minimization, Secondary Use, and Monitoring and Tracking sections. The statutory requirements remain independently applicable; the final proposed rule does not purport to amend them.

XIII. Monitoring / tracking — actor covered

Comments: Argue statute addresses a business permitting an individual, including a parent/guardian, to monitor or track, while draft may encompass ordinary monitoring by the business. (SIIA, p. 3; TechNet, p. 3; Internet Works, p. 2.)

Response: The AGO agrees and has revised the rule to track § 2449f(a)(3), which addresses circumstances in which a covered business permits an individual to monitor a covered minor's activity or track the minor's location. *See* 9 V.S.A. § 2449f(a)(3); final proposed rule, General Prohibition.

Final-text clarification: The final proposed rule omits the previously proposed standalone Data Minimization, Secondary Use, and Monitoring and Tracking sections. The statutory requirements remain independently applicable; the final proposed rule does not purport to amend them.

XIV. Monitoring signal — persistence / warning fatigue

Comments: Object to continuous/perpetual signals and broad monitoring definitions; request exclusion of routine logging/persistent identifiers. (SIIA, p. 3; ESA, p. 8; Internet Works, p. 2.)

Response: The AGO agrees that routine operational logging is not necessarily the monitoring or tracking addressed by § 2449f(a)(3). The final proposed rule clarifies the covered activity while preserving a meaningful conspicuous signal when such monitoring or tracking occurs. *See* 9 V.S.A. § 2449f(a)(3); final proposed rule, General Prohibition.

Final-text clarification: The final proposed rule omits the previously proposed standalone Data Minimization, Secondary Use, and Monitoring and Tracking sections. The statutory requirements remain independently applicable; the final proposed rule does not purport to amend them.

XV. Push notifications / beneficial notices

Comments: Seek clarification for parent-configured task reminders, deadlines, safety notices, game functionality, and other beneficial notifications. (NetChoice, p. 3; ESA, p. 2.)

Response: The AGO agrees that ordinary safety, accessibility, deadline, or user-requested notifications are not prohibited merely because they may increase engagement. The statutory nighttime restriction remains unchanged. *See* 9 V.S.A. §§ 2449f(a)(5), (b); final proposed rule, Push Notifications and Engagement-Based Notifications.

XVI. Disengagement friction / autonomy

Comments: Industry says ‘make disengagement harder than engagement’ is vague and could capture progress alerts/profile prompts; supporters favor protections against manipulative friction. (SIIA, p. 2.)

Response: The AGO retains protections against design practices that materially impair user choice, as expressly contemplated by § 2449f(b), but has clarified the standard to distinguish manipulative friction from neutral operational steps. *See* 9 V.S.A. § 2449f(b); final proposed rule, Impairment of Autonomy and Asymmetrical Interfaces.

XVII. First Amendment — general challenge

Comments: Argue recommendation, curation, design, and age-related restrictions burden protected speech/editorial discretion or anonymous access. (NetChoice, p. 3; CCIA, p. 7; SIIA, p. 2; Ad trades, p. 4.)

Response: The AGO considered commenters' First Amendment concerns and revised the rule where appropriate to focus on data-processing and design. *See* 9 V.S.A. § 2449f(b); final proposed rule, General Prohibition and Behavioral Recommendation System.

XVIII. Risk assessments / documentation

Comments: Industry argues pre-deployment assessments/documentation create unauthorized obligations; other commenters favor evidence and accountability. (NetChoice, p. 2; CCIA, p. 5; SIIA, p. 1; KGI, p. 5.)

Response: The AGO agrees in part. The final proposed rule avoids creating a freestanding impact-assessment regime and limits documentation obligations to records reasonably related to demonstrating compliance with the rule's substantive requirements. *See* 9 V.S.A. § 2449f(b); final proposed rule, Foreseeability.

Final-text clarification: The Foreseeability section expressly disclaims an independent testing, risk-assessment, documentation, or safeguards duty, and the rule does not create a rebuttable presumption.

XIX. Safe harbor for safety/accessibility/fraud prevention

Comments: Request express carve-outs for legitimate safety, security, accessibility and fraud-prevention functions. (SIIA, p. 2; ACT, p. 3; FPF, p. 2.)

Response: The AGO agrees that legitimate safety, security, accessibility, and fraud-prevention functions should not be treated as unlawful solely because they involve data processing or incidentally affect engagement. The final proposed rule includes a limited

clarification consistent with the statute. *See* 9 V.S.A. § 2449f(b); final proposed rule, Foreseeability.

XX. Small-business proportionality

Comments: Seek proportionate evaluation/testing/documentation, flexible compliance, and recognition of small-business resources. (ACT, p. 2; Internet Works, p. 2.)

Response: The AGO agrees that implementation burdens should be proportionate where the statute permits. The final proposed rule preserves consistent substantive protections while allowing flexible, technology-neutral compliance methods. *See* 9 V.S.A. § 2449f(b); final proposed rule, Compulsive Use and Foreseeability.

XXI. Implementation period / delayed effective date

Comments: Request delayed or tiered compliance, some requesting 12 months after finalization. (NetChoice, p. 8; MPA, p. 3; SIIA, p. 3; ACT, p. 3.)

Response: The AGO recognizes implementation concerns and has considered them in finalizing the rule. The AGO cannot alter statutory obligations or effective dates established by the General Assembly. *See* Act 63 (2025); final proposed rule, Effective Date.

XXII. Content neutrality / media rights

Comments: Commenters from different perspectives emphasize that rules should target system behavior rather than media viewpoint; industry warns of censorship. (CIVITERA, p. 3; MAMA, p. 3.)

Response: The AGO agrees that the rules should regulate covered data-processing and design practices rather than the viewpoint or substantive content of media. The final proposed rules are drafted and interpreted consistently with Act 63's express protections for access to media. *See* 9 V.S.A. §§ 2449c(c), 2449f(b); final proposed rule, General Prohibition.

XXIII. Support for rules / factual record of harms

Comments: Supporters describe privacy-invasive and compulsive-design risks and support restrictions on infinite scroll, autoplay, streaks/rewards, notifications, recommendations, and privacy-conscious age assurance. (KGI, p. 18; MAMA, p. 2; Common Sense Media, p. 3; Front Porch Forum, p. 3.)

Response: The AGO appreciates comments and evidence describing the effects of compulsive-design practices and privacy-invasive age assurance. These materials support retaining the rules' core protections while refining language for clarity, proportionality, and statutory fit. *See* 9 V.S.A. § 2449f(b); final proposed rule, Prohibited Practices.

XXIV. Requests outside delegated rulemaking scope

Comments: Requests include regulating marketing/influencers, banning or age-restricting paid game mechanics, extending protections to adults, breach support, public lists of covered businesses, and broader content concerns.

Response: The AGO appreciates the concern but declines to adopt the requested provision because this rulemaking is limited to the authority delegated by §§ 2449f(b) and 2449g(b). *See* 9 V.S.A. § 2449f(b).

SUBJECT: CONSUMER PROTECTION –
PROHIBITED DATA AND DESIGN PRACTICES

ATTORNEY GENERAL – CONSUMER PROTECTION UNIT
ADOPTED PURSUANT TO 9 V.S.A. § 2449f
CONSUMER PROTECTION RULE __
Effective date: January **1~~/1/~~, 2027**

CP __ Definitions

CP __ Applicability
~~**CP __ Definitions**~~
CP __ General ~~Duty~~Prohibition
CP __ Foreseeability
~~CP __ Data Minimization~~
~~CP __ Secondary Use~~
~~**CP** __ Monitoring and Tracking~~
~~CP __~~Personalized Media
CP __ Compulsive Use
CP __ Impairment of Autonomy
CP __ Prohibited Practices
CP __ Asymmetrical Interfaces
CP __ Autoplay
CP __ Behavioral Recommendation ~~Systems~~ System
~~CP __ Circumvention~~
CP __ Continuous Media Feeds
CP __ Engagement-Based Notifications
CP __ Push Notifications
CP __ Reinforcement Mechanisms
CP __ Social Pressure Features
~~CP __ Illustrative Examples~~
CP __ Circumvention
~~CP __ Illustrative Applications~~

CP __ ~~Applicability~~ Severability

~~(a) This Part applies to any covered business with respect to the design, development, and operation of any online service, product, or feature that is used by a covered minor.~~

~~(b) The requirements and prohibitions set forth herein shall apply where a covered business knows or has reason to know that a user is a covered minor. A covered business shall be deemed to have reason to know that a user is a covered minor where:~~

~~[1.] The online service, product, or feature is reasonably likely to be accessed by a covered minor; or~~

~~[2.] The covered business collects, processes, or infers information indicating a user's age or status as a covered minor.~~

CP ___ Definitions

[(a)] ~~(a) Incorporation by reference.~~ **Terms used but not defined in this Rule** ~~shall~~ **have the meanings set forth in 9 V.S.A. § 2449a.**

[(b)] ~~(b)~~ **"Behavioral data" means data reflecting a covered** ~~minor's~~minor's **activity, interactions, or engagement with an online service, product, or feature, including clicks, scrolls, dwell time, viewing history, and navigation patterns, but excluding preferences or characteristics inferred from such activity.**

~~(c) "Behavioral inference" means the prediction, estimation, or derivation of a covered minor's preferences, interests, characteristics, or likely future behavior from behavioral data.~~

~~(d) "Conspicuous signal" means a clear, continuous, real-time, and unavoidable visual indicator, displayed in a covered minor's primary interface for the duration of any monitoring or tracking activity, that is readily noticeable and understandable to a covered minor and does not require additional action, navigation, or interpretation to identify that such monitoring or tracking is occurring.~~

[(c)] ~~(e)~~ **"Engagement optimization" means techniques used to increase a covered minor's interaction, session duration, or frequency.**

[(d)] ~~(f)~~ **"Express and unambiguous request" means a specific and contemporaneous request affirmatively initiated by a covered minor and not inferred from prior activity, behavioral data, or persistent interaction patterns.**

~~(g) "Heightened risk of harm" means reasonably foreseeable risk of compulsive use, impairment of autonomy, or loss of user control over engagement with an online service, product, or feature. Illustrative examples include, but are not limited to:~~

~~[1.] Prolonged or repeated use beyond a covered minor's intent;~~
~~[2.] Repeated re-engagement through prompts or notifications; or~~
~~[3.] Diminished ability to disengage from a service.~~

[(e)] ~~(h)~~ **"Inferred preferences" means preferences, interests, or affinities predicted, derived, or estimated from a covered minor's personal data, behavioral data, prior activity, interactions, or engagement patterns.**

~~(i) "Monitoring" means observing, collecting, recording, analyzing, or processing a covered minor's activity, behavior, or interactions with an online service, product, or feature, including through automated or algorithmic means, and includes both real-time and retrospective observation or analysis of a covered minor's activity.~~

~~[1.] Monitoring includes, but is not limited to:~~

~~[i.] Tracking a covered minor's interactions, such as clicks, scrolls, dwell time, or navigation patterns;~~
~~[ii.] Collecting or analyzing engagement data, including session duration, frequency of use, or media consumption;~~
~~[iii.] Recording a covered minor's behavior across sessions, devices, or contexts;~~
~~[iv.] Generating or using persistent identifiers or device-level identifiers to associate activity with a covered minor or device; or~~
~~[v.] Collecting or analyzing signals used to infer preferences, interests, or behavioral patterns.~~

~~[2.] Monitoring shall be deemed to occur regardless of whether a covered minor's activity, behavioral data, or engagement data is:~~

~~[i.] Stored, retained, or ephemeral;~~
~~[ii.] Linked to an identified or identifiable covered minor; or~~
~~[iii.] Used directly or indirectly to influence media, features, or experience.~~

~~(j) "Necessary to provide a service" means the collection, use, or processing of personal data that is strictly required to provide a specific feature directly responsive to an express and unambiguous request by a covered minor and cannot reasonably be achieved through less data-intensive means. Personal data use is not necessary to provide an online service, product, or feature where it is used to tailor, prioritize, recommend, or modify media, features, or a covered minor's experience based on behavioral data, inferred preferences, or prior activity, or where it is used for engagement optimization, advertising, or analytics not essential to the requested functionality. Personal data use shall not be considered unnecessary solely because it supports security, fraud prevention, accessibility, or other functions reasonably undertaken in the best interests of covered minors and essential to the operation of the requested online service, product, or feature.~~

[(f)] ~~(k)~~ **"Push notification" means any notification delivered to a covered minor outside active use of an online service, product, or feature.**

~~(l) "Secondary use" means~~ CP Applicability

(a) **This Rule applies to any** ~~use not necessary~~covered business with respect **to** ~~provide~~ **the** design, development, and operation of any online **service**, product, **or** ~~not reasonably expected~~feature that is used **by a covered minor**~~, which includes profiling, recommendations, cross-service use, advertising, and model training, and applies regardless of disclosure.~~.

(b)[(a)] **This Rule applies to a covered business with respect to a user who is a covered minor, as those terms are defined in 9 V.S.A. § 2449a. Nothing**

in this Rule shall be construed to alter the statutory standards governing when an online service, product, or feature is reasonably likely to be accessed by a minor or when a user is a covered minor.

CP ___ General

~~(m) "Select, recommend, or prioritize media" means ranking, ordering, sequencing, filtering, or amplifying media.~~

~~(n) "Subvert or impair autonomy" means~~ Prohibition

A covered business shall not implement data processing or design **practices that** ~~interfere with~~ lead to compulsive use or subvert or impair **a covered minor's** ~~informed~~autonomy, **decision- making** ~~or make disengagement from a service harder.~~

[(b)] ~~(o) "Tracking" means determining location or following behavior across services, including cross-site tracking and location signals.~~

~~CP ___ General~~ ~~Duty~~

~~(a) A covered business shall not design, develop~~**, or** ~~deploy a data processing or design practice that creates a reasonably foreseeable heightened risk of harm to a covered minor.~~
~~(b) Examples of practices that may create a reasonably foreseeable heightened risk of harm include, but are not limited to:~~

~~[1.] Features designed to increase engagement without direction from a covered minor;~~
~~[2.] Systems that repeatedly prompt re-engagement of a covered minor; or~~
~~**Designs that remove or obscure stopping cues**~~choice**.**

CP ___ Foreseeability

~~(a)~~ **In determining whether a** data processing or design practice leads to compulsive use or subverts or impairs a **covered** ~~business violated this Rule~~minor's autonomy, decision making, or choice**, the Attorney General may consider** ~~whether~~evidence of **the** ~~covered business knew or should have known that a data processing or design practice created a~~practice's actual or **reasonably foreseeable** ~~heightened risk of harm to a~~effects on **covered** ~~minor.~~

[(a)] ~~**(b) In determining whether a covered business knew or should have known that a practice created a heightened risk of harm, the Attorney General may consider**~~minors, based on **all relevant facts and circumstances**~~, including:~~.

(a) Relevant evidence may include:

1. **Internal testing, analytics, research, routinely collected metrics, or other evidence** ~~demonstrating the reasonably foreseeable~~concerning the **effects of the practice on covered minors;**

[1.] **Industry knowledge, guidance, standards, or commonly known** ~~risks~~effects **associated with similar practices;**

[2.] **Prior similar practices or experiences demonstrating** ~~risks to~~effects on **covered minors;**

[3.] ~~**Whether**~~ Information available to **the covered business** ~~considered~~concerning **the** ~~reasonably foreseeable~~ **effects of the practice** ~~on covered minors~~ **before** or after **deployment or material modification;** and

[4.] ~~Whether the covered business evaluated the potential for the practice~~The nature, design, operation, and reasonably foreseeable effects of the practice, including any safeguards implemented **to**~~:~~
~~i. induce~~ reduce **compulsive use** or impairment of autonomy.

[(b)] The ~~:~~
~~ii. impair~~factors in subsection (b) are evidentiary considerations relevant to determining whether a practice leads to compulsive use or subverts or impairs **a covered minor's autonomy, decision making, or choice**~~;~~
~~iii.~~. This section does not establish an independent duty to conduct testing, perform a risk assessment, document an evaluation, or implement particular safeguards. A failure to undertake any such activity does not, standing alone, establish a violation of this Rule.

~~1.~~ An **increase** in **engagement, session duration, or frequency of use**~~; or~~
~~iv. rely on behavioral, psychological, or engagement optimization techniques; and~~
~~[1.] Whether safeguards reasonably available to mitigate such risks were identified or implemented.~~

~~(c) Evidence that a covered business failed to consider reasonably foreseeable risks associated with a practice prior to deployment or material modification may be considered in determining whether the covered business exercised reasonable care under this Rule.~~

[(c)] ~~**(d)**~~, standing alone, does not establish compulsive use or impairment of autonomy. **A practice** ~~shall not be deemed reasonably foreseeable~~does not violate this Rule **solely because it incidentally increases engagement where** ~~the~~its **primary purpose and reasonably foreseeable effect** ~~of the practice is~~are **to enhance safety, accessibility, fraud prevention, security, or another function reasonably undertaken in the best interests of covered minors.**

~~CP___Data Minimization~~

~~(a) A covered business shall not collect, retain, use, sell, or share personal data of a covered minor unless such data is necessary to provide an online service, product, or feature.~~

(b) Personal data of a covered minor shall not be retained for longer than is reasonably necessary to provide the online service, product, or feature for which such data was collected.

[1.] Retention of personal data of a covered minor shall be limited to the minimum period required to fulfill the specific and express purpose for which the data was collected.

[2.] Personal data of a covered minor shall not be retained for purposes of:

[i.] Tailoring, prioritizing, recommending, or modifying media, features, or a covered minor's experience based on behavioral data, inferred preferences, or prior activity;
[ii.] Recommendation systems;
[iii.] Engagement optimization;
[iv.] Analytics not necessary to provide the online service, product, or feature; or
[v.] Model training or development.

[3.] A covered business is prohibited from retaining personal data of a covered minor based on speculative, future, or undefined uses.

(c) A covered business is prohibited from processing personal data of a covered minor where:

[1.] Such processing creates a reasonably foreseeable heightened risk of harm; or
[2.] Less data-intensive means are reasonably available.

CP___ Secondary Use

(a) Personal data of a covered minor shall not be used for any purpose other than the purpose for which it was collected.

(b) Disclosure to or consent by a covered minor does not make secondary use by a covered business permissible.

(c) A covered business shall not:

[1.] Profile a covered minor;
[2.] Infer behavioral traits, preferences, or engagement patterns of a covered minor; or
[3.] Use such inferences to influence the presentation of media, user interaction, or engagement of covered minors.

(d) Examples of secondary use include, but are not limited to:

[1.] Using collected data to improve recommendation algorithms;
[2.] Sharing data across services to influence the selection, recommendation, prioritization, or presentation of media;
[3.] Using engagement data to train models that predict, influence, or optimize a covered minor's behavior, engagement, or media interaction.

CP___ Monitoring and Tracking

[(a)] Monitoring or tracking of a covered minor by a covered business requires a conspicuous signal.

[(b)] A conspicuous signal must be continuous, real-time, visible, and understandable to a covered minor.

[(c)] Examples of a conspicuous signal include, but are not limited to:

[1.] A persistent on-screen indicator, such as an icon, banner, or label, that remains visible while monitoring or tracking occurs;
[2.] A clear and continuous visual notice, such as a highlighted border, overlay, or status bar, indicating that a covered minor's activity is being monitored;
[3.] A real-time notification or indicator that visibly reflects when monitoring or tracking is occurring;
[4.] A system-level indicator provided by the device or operating system that is visible during monitoring or tracking; or
[5.] A clear textual disclosure displayed in proximity to the monitored activity that remains visible for the duration of such monitoring.

(d) A signal shall not be considered conspicuous where it:

[1.] Appears only at initial use and does not persist during monitoring;
[2.] Is hidden, obscured, or displayed outside the covered minor's primary interface;
[3.] Requires a covered minor to navigate menus, settings, or disclosures to identify monitoring;
[4.] Is presented in a manner that is not reasonably visible, understandable, or readily apparent to a covered minor; or
[5.] Is delayed, intermittent, or not contemporaneous with the monitoring or tracking activity.

(e) Examples of monitoring or tracking include, but are not limited to:

[1.] Collecting scroll, click, or dwell-time data reflecting how long a covered minor views or interacts with media;
[2.] Tracking a covered minor's activity across sessions; or
[3.] Recording interaction patterns for behavioral analysis.

CP___ Personalized Media

(a) A covered business shall not use personal data or behavioral data to select, recommend, rank, order, prioritize, or sequence media for a covered minor.

(b) For purposes of this section, prohibited uses include any use of personal data or processing that:

[1.] Personalizes or customizes media in a manner designed or reasonably likely to increase engagement based on a covered minor's activity, behavior, or characteristics;
[2.] Ranks, orders, or prioritizes media based on predicted or inferred preferences; or
[3.] Influences the selection, recommendation, prioritization, or presentation of media to a covered minor based on engagement metrics, including prior interactions, viewing

~~history, or dwell time data reflecting how long a covered minor views or interacts with said media.~~

~~(c) A covered business shall not:~~

~~[1.] Use personal data of a covered minor to train or develop recommendation systems; or~~
~~[2.] Use inferred or predicted preferences, interests, or behavioral data to select, recommend, or prioritize media.~~

~~(d) This section shall not prohibit the use of personal data where such use is limited to:~~

~~[1.] Media displayed in direct response to an express and unambiguous request by a covered minor to receive:~~

~~[i.] Media from a specific account, feed, channel, creator, or user;~~
~~[ii.] A specific category or type of media; or~~
~~[iii.] Media sharing similar characteristics to media affirmatively selected or viewed by the covered minor.~~

~~[2.] Privacy, accessibility, or display settings selected by a covered minor; or~~

~~[3.] Search queries used solely to display or prioritize media responsive to the search query.~~

~~(e) Examples of prohibited practices include, but are not limited to:~~

~~[1.] Algorithmic or personalized media feeds, including "For You" feeds;~~
~~[2.] Media ranked or ordered based on prior viewing behavior or interaction history;~~
~~[3.] Suggested videos, posts, or media based on inferred or predicted preferences;~~
~~[4.] Systems that continuously adapt media selection based on a covered minor's engagement.~~

CP ___ Compulsive Use

[(a)] ~~(a)~~ **A data processing or design practice** ~~shall be deemed to lead~~leads **to compulsive use where** ~~such practice:~~it causes or materially contributes to repetitive use that materially disrupts one or more major life activities of a covered minor, consistent with 9 V.S.A. § 2449a.

~~[1.] Relies on engagement optimization techniques, including the use of personal data or behavioral signals to increase a covered minor's interaction;~~
~~[2.] Is designed or reasonably likely to increase, prolong, or intensify a covered minor's interaction with the online service, product, or feature;~~
~~[3.] Operates without an express and unambiguous request by a covered minor directing the selection or continuation of media; or~~
~~[4.] Removes, obscures, delays, or diminishes natural stopping points or decision-making cues by a covered minor.~~

[(b)] ~~(b)~~ **In determining whether a** data processing or design **practice leads to compulsive use, the Attorney General may consider** ~~factors~~all relevant facts and circumstances, **including** ~~but not limited to~~**:**

[1.] ~~1. A covered minor's increases~~Increases **in time spent, frequency of use, or session length;**

[2.] ~~2. A covered minor's repeated~~Repeated **or habitual patterns of engagement;**

[3.] ~~3.~~ **The use of behavioral, psychological, or engagement-optimization techniques** ~~targeting covered minors~~**;**

[4.] ~~**Whether the covered business' own**~~Internal **testing, experimentation, A/B testing, product development,** ~~or internal~~routinely collected metrics, or **research** ~~identified~~concerning **the** ~~practice as increasing~~practice's effects on **engagement**~~, reducing~~ or **disengagement**~~, or increasing time spent by covered minors; or~~**;**

1. Whether engagement occurs without a covered minor's express and unambiguous request; and

~~1.~~ **Whether** ~~engagement occurs in the absence of a covered minor's express and unambiguous request.~~

~~(c) A rebuttable presumption that a practice leads to compulsive use shall arise where:~~

~~[1.] Engagement metrics increase absent an express and unambiguous request by a covered minor;~~

~~[2.] Media is automatically selected, recommended, or presented without direction from a covered minor;~~

~~[3.] The practice relies on behavioral prediction, inference, or engagement-based ranking; or~~

[5.] ~~**The covered business'** own~~the covered business's **testing, analytics, or research demonstrates that the practice** affects a covered minor's ability to disengage.

~~[6.]~~ ~~(materially increases~~c) Increased **engagement, session duration, frequency of use, or** ~~reduces~~re-engagement ~~a covered minor's ability to disengage.~~

~~(~~d) ~~A covered business~~ **may** ~~rebut such presumption by demonstrating, through clear and convincing~~ be considered as **evidence**~~, that:~~

~~[1.] The engagement is the result of an action initiated and directed by a covered minor; and~~

~~T~~he ~~practice does not rely on techniques designed to predict, influence, or optimize a covered minor's engagement or behavior~~ but does not, standing alone, establish compulsive use. No factor listed in subsection (b), standing alone, establishes a violation of this Rule.

CP ___ Impairment of Autonomy

~~(a)~~ **A data processing or design practice** ~~shall be deemed to subvert~~subverts **or** ~~impair~~impairs **a covered minor's autonomy, decision-making, or choice where** ~~such practice:~~

~~[1.] Uses design, timing, or presentation in a manner that~~ it **materially steers, pressures,** ~~or~~ **manipulates** ~~a covered minor's choice or decision-making;~~

~~[2.] Creates~~, obstructs, or imposes **asymmetrical friction**~~, including making engagement easier than disengagement;~~

~~[3.] Relies on behavioral, psychological, or cognitive influence techniques to affect a covered minor's decisions; or~~

[(a)] ~~O~~~~bscures, delays, or interferes with a~~ in a manner that meaningfully impairs the **covered minor's ability to** ~~understand, evaluate, or control their interactions~~make or effectuate a choice**.**

[(b)] ~~(b)~~ **In determining whether a practice** subverts or **impairs autonomy, the Attorney General may consider:**

1. **Whether a covered minor is provided a clear, readily accessible, and substantially equivalent ability to decline, disengage from, or limit use of an online service, product, or feature;**
2. **Whether disengagement requires additional steps, effort, or time compared to continued engagement;**
3. **The clarity, timing, and visibility of a covered minor's controls;** and

~~[4.] The use of urgency, scarcity, social comparison, streaks, popularity indicators, or other social pressure mechanisms designed or reasonably like to encourage continued engagement; and~~

[5.] **Whether a covered minor's decision-making is influenced without their awareness or intent.**

~~(c) A rebuttable presumption that a practice impairs a covered minor's autonomy shall arise where:~~

~~[1.] Disengagement is more difficult than engagement for a covered minor;~~

~~[2.] The practice uses behavioral or psychological influence techniques; or~~

~~[3.] The practice interferes with a covered minor's ability~~Differences in the number of steps, amount of effort, or time required **to make** ~~informed or voluntary choices.~~

~~(d) A covered business~~or effectuate a choice **may** ~~rebut such presumption by demonstrating, through clear and convincing~~be considered as **evidence**~~, that:~~

~~[1.] The practice is strictly necessary to provide a service requested by the covered minor; and~~

[(c)] ~~The practice does~~ but do **not** ~~rely on behavioral, psychological, or engagement optimization techniques~~, standing alone, establish impairment of autonomy**.**

CP___Prohibited Practices

~~The following examples illustrate practices of covered businesses that are prohibited as applied to covered minors. Each practice illustrates conduct that may constitute compulsive use or impairment of autonomy under this Rule:~~

The following provisions identify data processing or design practices that, in the Attorney General's opinion, lead to compulsive use or subvert or impair a covered minor's autonomy, decision making, or choice. Except where a provision expressly implements a separate statutory prohibition, the requirements of this part shall be construed consistently with the standards set forth in CP ___ Compulsive Use and CP ___ Impairment of Autonomy.

CP ___ Asymmetrical Interfaces

[(a)] ~~(a)~~ **A covered business shall not design** ~~interfaces~~or deploy an interface **that** ~~make continued engagement substantially easier than~~ imposes asymmetrical friction in a manner that meaningfully impairs a covered minor's ability to decline, disengage from, or limit use of an online service, product, or feature.

(a) In determining whether an interface violates subsection (a), the Attorney General may consider whether the interface:

Hides, obscures, or makes exit or **disengagement**~~, exit, or reduction of use by a covered minor.~~

~~(b) Illustrative examples include, but are not limited to:~~

[1.] ~~**Hidden, obscured, or**~~ controls materially **less accessible** ~~logout or exit controls; ;~~

~~[1.] Requiring additional~~Requires materially greater **steps, effort, or time to** ~~exit, disable features, or reduce use compared~~disengage than **to** ~~continuing~~continue **engagement;** ~~or~~

[2.] ~~Interfaces that delay, discourage,~~ **or** ~~interfere~~

1. **Delays, obstructs, or otherwise interferes with a covered** ~~minor's~~minor's **ability to disengage** ~~from the online service, product, or feature~~**.**

(b) Differences in the number of steps, effort, or time required to disengage do not, standing alone, establish a violation of this section.

CP ___ Autoplay

[(a)] ~~(~~A covered business shall not design or deploy an autoplay or auto-advancing media feature in **a**~~) A covered business shall not~~ manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(a) **In determining whether a feature violates subsection (a), the Attorney General may consider whether it automatically** ~~initiate~~initiates or advances **media without** ~~action by a covered minor~~a covered minor's direction, obscures a natural stopping point, or interferes with the covered minor's ability to stop or disengage**.**

~~(b) Illustrative examples include, but are not limited to:~~

(c) Automatic playback ~~of videos; or~~or advancement of media does not, standing alone, establish a violation of this section.

~~[1.] Auto-advancing media.~~

CP___ Behavioral Recommendation ~~Systems~~ System

[(a)] ~~(a)~~ **A covered business shall not implement or deploy** ~~any~~a **system that uses personal data, behavioral data, or inferred preferences to select, recommend, rank, order, prioritize, or sequence media for a covered minor**~~.~~, except as permitted under 9 V.S.A. § 2449f(a)(4).

~~(b) Such systems rely on engagement optimization and operate without~~ In applying this section, the exceptions set forth in 9 V.S.A. § 2449f(a)(4), including media responsive to a covered minor's **express and unambiguous request** ~~by a covered minor.~~

~~(c) Illustrative examples include, but are not limited to:~~

~~[1.] Algorithmic feeds that prioritize, rank, or recommend media based on a covered minor's behavioral data, inferred preferences, or prior activity;~~
~~[2.] "For You" feeds; or~~
~~[3.] Engagement-ranked media.~~

~~CP___ Circumvention~~

~~(a) A covered business shall not design, implement, modify, or deploy a feature, interface, or practice that:~~

~~[1.] Achieves substantially similar effects as a prohibited practice through alternative design, technical, or operational means; or~~
~~[2.] Circumvents or attempts to circumvent the intent, purpose,~~**, privacy or** ~~requirements of this Rule.~~

~~(b) In determining whether a practice constitutes circumvention, the Attorney General may consider whether the practice:~~

~~[1.] Replicates or replaces engagement optimization effects through alternative mechanisms or design features;~~

~~**Produces substantially similar effects on a covered minor's engagement, behavior, or decision** making as a prohibited practice;~~ accessibility settings, and search queries, shall be preserved

~~[2.] **Uses** alternative signals, metrics, or behavioral indicators to achieve outcomes otherwise prohibited by this Rule; or~~
~~[3.] Replaces a prohibited feature with a substantially equivalent feature designed to achieve similar engagement outcomes.~~

~~(c) Illustrative examples include, but are not limited to:~~

~~[1.] Redesigning a prohibited feature while preserving substantially similar engagement effects;~~
~~[2.] Using alternative behavioral signals or inferred preferences to optimize engagement;~~
~~[3.] Replacing prohibited notifications, prompts, or recommendation features with substantially equivalent engagement mechanisms; or~~
[(b)] ~~**Modifying the presentation, timing, or delivery of a prohibited practice while maintaining substantially similar behavioral effects.**~~

CP ___ Continuous Media Feeds

[(a)] ~~(a)~~ **A covered business shall not** ~~provide media streams that automatically load~~design **or** deploy a **continuously** ~~present~~loading or presenting media feed in a manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(a) In determining whether a feed violates subsection (a), the Attorney General may consider whether the feed:

1. **Automatically loads or continuously presents additional media without** ~~requiring~~ **a discrete and intentional action by** ~~a~~the **covered minor**~~,~~ **beyond ordinary scrolling or navigation**~~, to access such additional media.~~**;**

~~(b) Illustrative examples include, but are not limited to:~~

~~[1.] Infinite scroll interfaces;~~
~~[2.] Interfaces that automatically load additional media as a covered minor scrolls, swipes, or otherwise engages in ordinary navigation; or~~
[1.] ~~Continuously presented media streams without a clear~~Removes, obscures, or materially diminishes natural **stopping** ~~point or a discrete and intentional action by a~~points; or

2. Interferes with the **covered** ~~minor, beyond ordinary~~minor's ability to stop, decline additional media, or disengage.

(b) **Continuous loading, scrolling, or navigation**~~, to access additional media~~ does not, standing alone, establish a violation of this section**.**

CP ___ Engagement-Based Notifications

~~(a)~~ **A covered business shall not** ~~send~~design, time, trigger, or deliver **notifications** ~~or deploy notification features designed or reasonably likely to encourage, increase, prolong, or reinitiate a covered minor's engagement with an online service, product, or feature through the use of~~using **personal data, behavioral data, or inferred preferences**~~.~~

~~(b) Illustrative examples include, but are not limited to:~~

[(a)] ~~**Notifications informing a covered minor**~~ in a manner **that** ~~new media, activity, or interactions are available;~~ leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.
~~Notifications~~
(a) In determining whether a notification practice violates subsection (a), the Attorney General may consider whether notifications:

1. **Are triggered or timed based on a covered** ~~minor's~~minor's **prior activity, behavioral patterns, or inferred interests;**

~~[1.] Prompts encouraging a covered minor to continue, resume, or increase use of the online service, product, or feature;~~

[1.] ~~Notifications designed or reasonably likely to encourage~~Repeatedly prompt **a covered minor to** ~~return~~ resume or prolong use **after** ~~inactivity or~~ **disengagement;**
2. Use urgency, social pressure, or behavioral prediction to encourage re-engagement; or
3. Interfere with the covered minor's ability to limit or disengage from the service.

(b) **A notification does not violate this section solely because it informs a covered minor of new activity or media, responds to an express and unambiguous request, or** provides transactional, safety, or account-related information.

~~[2.] Notifications highlighting peer activity, popularity, or engagement metrics to encourage continued use.~~

CP ___ Push Notifications

[(a)] ~~**(a)**~~ **A covered business shall not** ~~send~~design, time, trigger, or deliver **push notifications** in a manner that leads **to** ~~a covered minor designed or reasonably~~

~~likely to encourage repeated, prolonged, or~~ **compulsive** ~~engagement~~use or subverts or impairs a covered minor's autonomy, decision making, or choice**.**

~~(b) Prohibited notifications include any notification that:~~

[(b)] ~~Is based on~~ In determining whether a push-notification practice violates subsection (a), the Attorney General may consider whether the practice:

~~1.~~ Uses a covered minor's **personal data,** ~~activity, or~~ **behavioral data**~~;~~

[1.] ~~Is triggered by predicted~~**, or inferred preferences**~~,~~ ~~interests,~~ to optimize the timing **or** ~~likelihood~~frequency **of** notifications for re-**engagement**~~;~~ ~~or~~

~~[3.] Encourages a covered minor to return to, continue using, or increase use of an online service, product, or feature through the use of personal data, behavioral data, or inferred preferences..~~

~~(c) A covered business shall not:~~

[2.] ~~Use~~Repeatedly prompts a covered minor to resume use after disengagement; or

1. **Interferes with a covered** ~~minor's personal data to determine the timing, frequency, or media of~~minor's ability to limit **notifications** ~~for purposes of increasing engagement; or~~or disengage.

~~Use a covered minor's behavioral data~~

~~1.~~ Nothing in this section limits **or** ~~inferred preferences to trigger or optimize~~ modifies the prohibition in 9 V.S.A. § 2449f(a)(5) on sending push **notifications**~~.~~

~~(d) A covered business shall not send any push notification~~ **to a covered minor between** ~~the hours of~~ **12:00** ~~a.m.~~midnight **and 6:00 a.m.**~~, except where necessary to provide a transactional, safety, or account-related notification requested by a covered minor.~~

~~(e) This section shall not prohibit:~~

~~[1.] Notifications that are necessary to provide an online service, product, or feature in direct response to an express and unambiguous request by a covered minor;~~
~~[2.] Notifications that provide transactional, safety, or account-related information and are not designed to increase engagement; or~~
~~[3.] Notifications expressly requested by a covered minor.~~

~~(f) A covered business shall not circumvent this section by:~~

~~[1.] Modifying the format, timing, or delivery mechanism of a notification to achieve substantially similar engagement effects; or~~
~~[2.] Substituting notifications with functionally equivalent prompts, alerts, or messages delivered through other means.~~

~~(g) Examples of prohibited push notifications include, but are not limited to:~~

~~[1.] Notifications encouraging a covered minor to return to a service based on prior activity;~~
~~[2.] Alerts highlighting new or recommended media likely to increase engagement;~~
~~[3.] Reminders or prompts designed or reasonably likely to encourage continued use or repeated access;~~

[(c)] ~~N~~Notifications triggered by a prediction that a covered minor is likely to re-engage**.**

CP ___ Reinforcement Mechanisms

[(a)] ~~(a)~~ **A covered business shall not use** the timing, triggering, or presentation of **variable or intermittent rewards** in a manner that leads **to** ~~influence engagement by~~compulsive use or subverts or impairs **a covered** ~~minor~~minor's autonomy, decision making, or choice**.**

~~(b) Illustrative examples include, but are not limited to:~~

~~[1.] Likes, badges, or points;~~
~~[2.] Intermittent feedback systems; or~~
~~[3.] Gamified incentives.~~

[(b)] A reward is not prohibited solely because it is variable or intermittent, including a score, level, achievement, badge, point, or other reward reflecting gameplay or completion of a user-selected activity.

CP ___ Social Pressure Features

[(a)] ~~(a)~~ **A covered business shall not ~~implement features designed to create~~**design or deploy a **social--pressure** feature in a manner that leads to compulsive use or materially impairs a covered minor's autonomy, decision making, or choice.

(a) In determining whether a feature violates subsection (a), the Attorney General may consider whether its design or operation:

[1.] Uses ~~, urgency~~streaks, repeated prompts**, or perceived ~~obligation for~~** obligations to pressure **a covered minor to ~~engage~~**continue or resume use;

1. Creates artificial urgency or consequences for disengagement; or
2. **Materially interferes with ~~an online service, product, or feature~~**a covered minor's ability to decline, delay, or discontinue engagement**.**

(b) The presence of social interaction, popularity indicators, or information about other users' activity does not, standing alone, establish a violation of this section.

CP___ Circumvention

(a) A covered business shall not evade a prohibition of this Rule by modifying the design, implementation, timing, presentation, or technical operation of a data processing or design practice where the modified practice would itself violate an operative prohibition of this Rule.

(b) In determining whether a modified practice violates an operative prohibition of this Rule, the Attorney General may consider all relevant facts and circumstances, including:

1. Whether the modified practice causes or materially contributes to compulsive use;
2. Whether the modified practice materially steers, pressures, manipulates, obstructs, or imposes asymmetrical friction in a manner that meaningfully impairs a covered minor's ability to make or effectuate a choice;
3. Whether the modified practice achieves substantially the same prohibited effects through alternative design, technical, or operational means; and
4. Whether the modification changes the practice's form or delivery without materially changing its effects on covered minors.

(c) A practice does not violate this section solely because it resembles a prohibited practice, uses a similar technical mechanism, or produces increased engagement, session duration, or frequency of use. A violation must be established under an operative prohibition of this Rule.

CP___ ~~(b) Illustrative examples include, but are not limited to:~~

~~[1.] Streaks or other features that reward continuous or repeated engagement;~~
~~[2.] Missed activity alerts, inactivity notices, or reminders designed or reasonably likely to encourage a covered minor to return to the online service, product, or feature;~~
~~[3.] Peer activity prompts, including notifications that friends, peers, or contacts are active, engaging, or waiting;~~
~~[4.] Popularity indicators, engagement counts, or social comparison features designed or reasonably likely to encourage continued engagement; or~~
~~[5.] Features that create a perceived social consequence for disengaging, delaying response, or failing to maintain activity.~~

~~CP___ Illustrative Examples~~
~~Examples provided in this Rule are illustrative and non-exhaustive. The inclusion of an example shall not be construed to limit the scope or application of any provision of this Rule.~~

~~CP___ Illustrative Applications~~

~~The following are examples of practices that may violate multiple provisions of this Rule:~~

~~(a) A media stream that combines infinite scroll with engagement-based ranking or personalized media recommendations;~~

~~(b) Notifications or prompts timed or triggered based on a covered minor's prior activity, behavioral patterns, or inferred preferences to encourage re-engagement; or~~

~~(c) Features designed to prolong or intensify a covered minor's use of an online service, product, or feature without an express and unambiguous request by the covered minor.~~Severability

If any provision of this Rule, or the application of any provision to any person or circumstance, is held invalid by a court of competent jurisdiction, the remaining provisions and applications shall remain in effect to the extent they can be given effect independently of the invalid provision or application.

SUBJECT: CONSUMER PROTECTION –
PROHIBITED DATA AND DESIGN PRACTICES

ATTORNEY GENERAL – CONSUMER PROTECTION UNIT
ADOPTED PURSUANT TO 9 V.S.A. § 2449f
CONSUMER PROTECTION RULE ___
Effective date: January 1, 2027

CP ___ Definitions
CP ___ Applicability
CP ___ General Prohibition
CP ___ Foreseeability
CP ___ Compulsive Use
CP ___ Impairment of Autonomy
CP ___ Prohibited Practices
CP ___ Asymmetrical Interfaces
CP ___ Autoplay
CP ___ Behavioral Recommendation System
CP ___ Continuous Media Feeds
CP ___ Engagement-Based Notifications
CP ___ Push Notifications
CP ___ Reinforcement Mechanisms
CP ___ Social Pressure Features
CP ___ Circumvention
CP ___ Severability

CP ___ Definitions

(a) Terms used but not defined in this Rule have the meanings set forth in 9 V.S.A. § 2449a.

(b) “Behavioral data” means data reflecting a covered minor’s activity, interactions, or engagement with an online service, product, or feature, including clicks, scrolls, dwell time, viewing history, and navigation patterns, but excluding preferences or characteristics inferred from such activity.

(c) “Engagement optimization” means techniques used to increase a covered minor’s interaction, session duration, or frequency.

(d) “Express and unambiguous request” means a specific and contemporaneous request affirmatively initiated by a covered minor and not inferred from prior activity, behavioral data, or persistent interaction patterns.

(e) “Inferred preferences” means preferences, interests, or affinities predicted, derived, or estimated from a covered minor’s personal data, behavioral data, prior activity, interactions, or engagement patterns.

(f) “Push notification” means any notification delivered to a covered minor outside active use of an online service, product, or feature.

CP___ Applicability

(a) This Rule applies to any covered business with respect to the design, development, and operation of any online service, product, or feature that is used by a covered minor.
(b) This Rule applies to a covered business with respect to a user who is a covered minor, as those terms are defined in 9 V.S.A. § 2449a. Nothing in this Rule shall be construed to alter the statutory standards governing when an online service, product, or feature is reasonably likely to be accessed by a minor or when a user is a covered minor.

CP___ General Prohibition

A covered business shall not implement data processing or design practices that lead to compulsive use or subvert or impair a covered minor’s autonomy, decision making, or choice.

CP___ Foreseeability

(a) In determining whether a data processing or design practice leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice, the Attorney General may consider evidence of the practice's actual or reasonably foreseeable effects on covered minors, based on all relevant facts and circumstances.

(b) Relevant evidence may include:

1. Internal testing, analytics, research, routinely collected metrics, or other evidence concerning the effects of the practice on covered minors;
2. Industry knowledge, guidance, standards, or commonly known effects associated with similar practices;
3. Prior similar practices or experiences demonstrating effects on covered minors;
4. Information available to the covered business concerning the effects of the practice before or after deployment or material modification; and

5. The nature, design, operation, and reasonably foreseeable effects of the practice, including any safeguards implemented to reduce compulsive use or impairment of autonomy.

(c) The factors in subsection (b) are evidentiary considerations relevant to determining whether a practice leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice. This section does not establish an independent duty to conduct testing, perform a risk assessment, document an evaluation, or implement particular safeguards. A failure to undertake any such activity does not, standing alone, establish a violation of this Rule.

(d) An increase in engagement, session duration, or frequency of use, standing alone, does not establish compulsive use or impairment of autonomy. A practice does not violate this Rule solely because it incidentally increases engagement where its primary purpose and reasonably foreseeable effect are to enhance safety, accessibility, fraud prevention, security, or another function reasonably undertaken in the best interests of covered minors.

CP ___ Compulsive Use

(a) A data processing or design practice leads to compulsive use where it causes or materially contributes to repetitive use that materially disrupts one or more major life activities of a covered minor, consistent with 9 V.S.A. § 2449a.

(b) In determining whether a data processing or design practice leads to compulsive use, the Attorney General may consider all relevant facts and circumstances, including:

1. Increases in time spent, frequency of use, or session length;
2. Repeated or habitual patterns of engagement;
3. The use of behavioral, psychological, or engagement-optimization techniques;
4. Internal testing, experimentation, A/B testing, product development, routinely collected metrics, or research concerning the practice's effects on engagement or disengagement;
5. Whether engagement occurs without a covered minor's express and unambiguous request; and
6. Whether the covered business's testing, analytics, or research demonstrates that the practice affects a covered minor's ability to disengage.

(c) Increased engagement, session duration, frequency of use, or re-engagement may be considered as evidence but does not, standing alone, establish compulsive use. No factor listed in subsection (b), standing alone, establishes a violation of this Rule.

CP ___ Impairment of Autonomy

(a) A data processing or design practice subverts or impairs a covered minor's autonomy, decision making, or choice where it materially steers, pressures, manipulates, obstructs, or imposes asymmetrical friction in a manner that meaningfully impairs the covered minor's ability to make or effectuate a choice.

(b) In determining whether a practice subverts or impairs autonomy, the Attorney General may consider:

1. Whether a covered minor is provided a clear, readily accessible, and substantially equivalent ability to decline, disengage from, or limit use of an online service, product, or feature;
2. Whether disengagement requires additional steps, effort, or time compared to continued engagement;
3. The clarity, timing, and visibility of a covered minor's controls; and
4. Whether a covered minor's decision-making is influenced without their awareness or intent.

(c) Differences in the number of steps, amount of effort, or time required to make or effectuate a choice may be considered as evidence but do not, standing alone, establish impairment of autonomy.

CP ___ Prohibited Practices

The following provisions identify data processing or design practices that, in the Attorney General's opinion, lead to compulsive use or subvert or impair a covered minor's autonomy, decision making, or choice. Except where a provision expressly implements a separate statutory prohibition, the requirements of this part shall be construed consistently with the standards set forth in CP ___ Compulsive Use and CP ___ Impairment of Autonomy.

CP ___ Asymmetrical Interfaces

(a) A covered business shall not design or deploy an interface that imposes asymmetrical friction in a manner that meaningfully impairs a covered minor's ability to decline, disengage from, or limit use of an online service, product, or feature.

(b) In determining whether an interface violates subsection (a), the Attorney General may consider whether the interface:

1. Hides, obscures, or makes exit or disengagement controls materially less accessible;
2. Requires materially greater steps, effort, or time to disengage than to continue engagement; or
3. Delays, obstructs, or otherwise interferes with a covered minor's ability to disengage.

(c) Differences in the number of steps, effort, or time required to disengage do not, standing alone, establish a violation of this section.

CP ___ Autoplay

(a) A covered business shall not design or deploy an autoplay or auto-advancing media feature in a manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(b) In determining whether a feature violates subsection (a), the Attorney General may consider whether it automatically initiates or advances media without a covered minor's direction, obscures a natural stopping point, or interferes with the covered minor's ability to stop or disengage.

(c) Automatic playback or advancement of media does not, standing alone, establish a violation of this section.

CP ___ Behavioral Recommendation System

(a) A covered business shall not implement or deploy a system that uses personal data, behavioral data, or inferred preferences to select, recommend, rank, order, prioritize, or sequence media for a covered minor, except as permitted under 9 V.S.A. § 2449f(a)(4).

(b) In applying this section, the exceptions set forth in 9 V.S.A. § 2449f(a)(4), including media responsive to a covered minor’s express and unambiguous request, privacy or accessibility settings, and search queries, shall be preserved.

CP ___ Continuous Media Feeds

(a) A covered business shall not design or deploy a continuously loading or presenting media feed in a manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(b) In determining whether a feed violates subsection (a), the Attorney General may consider whether the feed:

1. Automatically loads or continuously presents additional media without a discrete and intentional action by the covered minor beyond ordinary scrolling or navigation;
2. Removes, obscures, or materially diminishes natural stopping points; or
3. Interferes with the covered minor's ability to stop, decline additional media, or disengage.

(c) Continuous loading, scrolling, or navigation does not, standing alone, establish a violation of this section.

CP ___ Engagement-Based Notifications

(a) A covered business shall not design, time, trigger, or deliver notifications using personal data, behavioral data, or inferred preferences in a manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(b) In determining whether a notification practice violates subsection (a), the Attorney General may consider whether notifications:

1. Are triggered or timed based on a covered minor's prior activity, behavioral patterns, or inferred interests;
2. Repeatedly prompt a covered minor to resume or prolong use after disengagement;
3. Use urgency, social pressure, or behavioral prediction to encourage re-engagement; or
4. Interfere with the covered minor's ability to limit or disengage from the service.

(c) A notification does not violate this section solely because it informs a covered minor of new activity or media, responds to an express and unambiguous request, or provides transactional, safety, or account-related information.

CP ___ Push Notifications

(a) A covered business shall not design, time, trigger, or deliver push notifications in a manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(b) In determining whether a push-notification practice violates subsection (a), the Attorney General may consider whether the practice:

1. Uses a covered minor's personal data, behavioral data, or inferred preferences to optimize the timing or frequency of notifications for re-engagement;
2. Repeatedly prompts a covered minor to resume use after disengagement; or
3. Interferes with a covered minor's ability to limit notifications or disengage.

(c) Nothing in this section limits or modifies the prohibition in 9 V.S.A. § 2449f(a)(5) on sending push notifications to a covered minor between 12:00 midnight and 6:00 a.m.

CP___ Reinforcement Mechanisms

(a) A covered business shall not use the timing, triggering, or presentation of variable or intermittent rewards in a manner that leads to compulsive use or subverts or impairs a covered minor's autonomy, decision making, or choice.

(b) A reward is not prohibited solely because it is variable or intermittent, including a score, level, achievement, badge, point, or other reward reflecting gameplay or completion of a user-selected activity.

CP___ Social Pressure Features

(a) A covered business shall not design or deploy a social-pressure feature in a manner that leads to compulsive use or materially impairs a covered minor's autonomy, decision making, or choice.

(b) In determining whether a feature violates subsection (a), the Attorney General may consider whether its design or operation:

1. Uses streaks, repeated prompts, or perceived obligations to pressure a covered minor to continue or resume use;
2. Creates artificial urgency or consequences for disengagement; or
3. Materially interferes with a covered minor's ability to decline, delay, or discontinue engagement.

(c) The presence of social interaction, popularity indicators, or information about other users' activity does not, standing alone, establish a violation of this section.

CP ___ Circumvention

(a) A covered business shall not evade a prohibition of this Rule by modifying the design, implementation, timing, presentation, or technical operation of a data processing or design practice where the modified practice would itself violate an operative prohibition of this Rule.

(b) In determining whether a modified practice violates an operative prohibition of this Rule, the Attorney General may consider all relevant facts and circumstances, including:

1. Whether the modified practice causes or materially contributes to compulsive use;
2. Whether the modified practice materially steers, pressures, manipulates, obstructs, or imposes asymmetrical friction in a manner that meaningfully impairs a covered minor's ability to make or effectuate a choice;
3. Whether the modified practice achieves substantially the same prohibited effects through alternative design, technical, or operational means; and
4. Whether the modification changes the practice's form or delivery without materially changing its effects on covered minors.

(c) A practice does not violate this section solely because it resembles a prohibited practice, uses a similar technical mechanism, or produces increased engagement, session duration, or frequency of use. A violation must be established under an operative prohibition of this Rule.

CP ___ Severability

If any provision of this Rule, or the application of any provision to any person or circumstance, is held invalid by a court of competent jurisdiction, the remaining provisions and applications shall remain in effect to the extent they can be given effect independently of the invalid provision or application.

Title 9 : Commerce and Trade

Chapter 062 : Protection of Personal Information

Subchapter 006 : Vermont Age-Appropriate Design Code Act

(Cite as: 9 V.S.A. § 2449f)

- **§ 2449f. Prohibited data and design practices [Effective January 1, 2027]**

[Subsection (a) effective January 1, 2027.]

(a) Data privacy. A covered business shall not:

(1) collect, sell, share, or retain any personal data of a covered minor that is not necessary to provide an online service, product, or feature with which the covered minor is actively and knowingly engaged;

(2) use previously collected personal data of a covered minor for any purpose other than a purpose for which the personal data was collected, unless necessary to comply with any obligation under this chapter;

(3) permit any individual, including a parent or guardian of a covered minor, to monitor the online activity of a covered minor or to track the location of the covered minor without providing a conspicuous signal to the covered minor when the covered minor is being monitored or tracked;

(4) use the personal data of a covered minor to select, recommend, or prioritize media for the covered minor, unless the personal data is:

(A) the covered minor's express and unambiguous request to receive:

(i) media from a specific account, feed, or user, or to receive more or less media from that account, feed, or user;

(ii) a specific category of media, such as "cat videos" or "breaking news," or to see more or less of that category of media; or

(iii) more or less media with similar characteristics as the media they are currently viewing;

(B) user-selected privacy or accessibility settings; or

(C) a search query, provided the search query is only used to select and prioritize media in response to the search; or

(5) send push notifications to a covered minor between 12:00 midnight and 6:00 a.m.

(b) Rulemaking. The Attorney General shall, on or before January 1, 2027, adopt rules pursuant to this subchapter that prohibit data processing or design practices of a covered business that, in the opinion of the Attorney General, lead to compulsive use or subvert or impair user autonomy, decision making, or choice during the use of an online service, product, or feature of the covered business. The Attorney General shall, at least once every two years, review and update these rules as necessary to keep pace with emerging technology. (Added 2025, No. 63, § 1, eff. Jan. 1, 2027.)

(802) 828-2863

MEMORANDUM OFFICE OF THE SECRETARY OF STATE

Primary Contact: Sarah Aceves, Office of the Attorney General, 109 State Street, Montpelier VT 05609 Tel: 802-828-3170 Fax: 802-828-2154 E-Mail: sarah.aceves@vermont.gov

Secondary Contact: Todd Daloz, Office of the Attorney General, 109 State Street, Montpelier VT 05609 Tel: 802-585-5964 Fax: 802-828-2154 E-Mail: todd.daloz@vermont.gov.

URL: https://ago.vermont.gov/vermont-age-appropriate-design-code-rulemaking

From: APA Coordinator, VSARA

RE: Prohibited Data and Design Practices.

Date 07/29/2026

We received Proposed Rule on 07/29/2026
Final Proposed Rule on
Adopted Rule on

We have assigned the following rule number(s):
Proposed Rule Number: 26P027
Adopted Rule Number:

(Final Proposals are not assigned a new number; they retain the Proposed Rule Number.)

The following problems were taken care of by phone/should be taken care of immediately:

We cannot accept this filing until the following problems are taken care of: Hearing information not provided by filing deadline.

The notice for this proposed rule appeared/will appear online on: 8/5/2026 and in the newspapers of record on 8/13/2026.

This rule takes effect on

Adoption Deadline: 03/29/2027

Please note:

If you have any questions, please call me at 828-2863. OR E-Mail me at: sos.statutoryfilings@vermont.gov

cc: Lindsey Schreier; Megan Cannella

OFFICE OF THE SECRETARY OF STATE

VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION (VSARA)

(802) 828-2863

TO:	Seven Days Legals (legals@sevendaysvt.com)	Tel: (802) 865-1020 x110.
	The Caledonian Record (adv@caledonian-record.com)	Tel: 748-8121 FAX: 748-1613
	Times Argus / Rutland Herald Classified Ads (classified.ads@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
	The Valley News (advertising@vnews.com)	Tel: 603-298-8711 FAX: 603-298-0212
	The Addison Independent (legals@addisonindependent.com)	Tel: 388-4944 FAX: 388-3100 Attn: Display Advertising
	The Bennington Banner / Brattleboro Reformer Lylah Wright (lwright@reformer.com)	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
	The Chronicle (ads@bartonchronicle.com)	Tel: 525-3531 FAX: 525-3200
	Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
	Newport Daily Express (jlafoe@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
	News & Citizen (mike@stowereporter.com)	Tel: 888-2212 FAX: 888-2173
	St. Albans Messenger Legals (legals@samessenger.com; cfoley@orourkemediagroup.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter
	VT Digger (legals@vtdigger.org)	Attn: Legals

FROM: APA Coordinator, VSARA **Date of Fax:** August 3, 2026

RE: The "Proposed State Rules " ad copy to run on **August 13, 2026**

PAGES INCLUDING THIS COVER MEMO: **3**

NOTE **8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

==========

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at https://secure.vermont.gov/SOS/rules/ . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

---

14 050 022 Inspection of Motor Vehicles.

Vermont Proposed Rule: 26-E02

AGENCY: Agency of Transportation, Department of Motor Vehicles

CONCISE SUMMARY: The Department is updating the requirements for annual motor vehicle inspections to remove failure reasons that are not directly related to motor vehicle safety. Items being removed include: all references to on-road testing; tire cuts, snags, or weather cracks; broken power steering belts; loss of shock absorber function; rust on brakes; headlamp aiming; ABS or airbag failure lights; horn, speedometer, and odometer malfunction; cracks or star breaks on windshield; power window malfunction; damaged windshield wiper blades; and modification to exhaust system causing an unreasonable sound level.

FOR FURTHER INFORMATION, CONTACT: Ben Shelp, Chief Inspector, Agency of Transportation, Department of Motor Vehicles, 120 State St Montpelier, VT 05602 Tel: 802-828-4647 Fax: 802-828-5418 E-Mail: Benjamin.Shelp@Vermont.gov URL: https://dmv.vermont.gov/about-vermont-dmv/administrative-rules.

FOR COPIES: Isaac Luce, Agency of Transportation, Department of Motor Vehicles, 120 State St Montpelier, VT 05602 Tel: 802-522-8924 Fax: 802-828-5418 E-Mail: Isaac.Luce@Vermont.gov.

Prohibited Data and Design Practices.

Vermont Proposed Rule: 26P027

AGENCY: Attorney General's Office

CONCISE SUMMARY: This Rule implements 9 V.S.A. § 2449f of Act 63 of 2025, Vermont's Age-Appropriate Design Code Act. It establishes standards for data processing and design practices that apply to covered businesses serving covered minors. The Rule explains which practices are prohibited, defines key terms, provides examples, and helps covered businesses understand how to comply with the law. It is intended to protect covered minors while giving covered businesses clear, flexible guidance for meeting their obligations under Vermont law.

FOR FURTHER INFORMATION, CONTACT: Sarah Aceves, Office of the Attorney General, 109 State Street, Montpelier VT 05609 Tel: 802-828-3170 Fax: 802-828-2154 E-Mail: sarah.aceves@vermont.gov URL: https://ago.vermont.gov/vermont-age-appropriate-design-code-rulemaking.

FOR COPIES: Todd Daloz, Office of the Attorney General, 109 State Street, Montpelier VT 05609 Tel: 802-585-5964 Fax: 802-828-2154 E-Mail: todd.daloz@vermont.gov.

Age Assurance Privacy.

Vermont Proposed Rule: 26P028

AGENCY: Attorney General's Office

CONCISE SUMMARY: This Rule implements 9 V.S.A. § 2449g of the Vermont Age-Appropriate Design Code Act. It establishes standards for how covered businesses determine whether a user is a covered minor while protecting privacy and minimizing unnecessary collection and use of personal data. The Rule provides requirements for selecting and using age assurance methods, protecting age assurance data, ensuring accuracy, providing fallback options and appeals, and documenting compliance. The Rule uses a flexible, technology-neutral approach that requires covered businesses to use the least intrusive age assurance method reasonably available that achieves the level of confidence necessary under the circumstances.

FOR FURTHER INFORMATION, CONTACT: Sarah Aceves, Office of the Attorney General, 109 State Street, Montpelier VT 05609 Tel: 802-828-3170 Fax: 802-828-2154 E-Mail: sarah.aceves@vermont.gov URL: https://ago.vermont.gov/vermont-age-appropriate-design-code-rulemaking.

FOR COPIES: Todd Daloz, Office of the Attorney General, 109 State Street, Montpelier VT 05609 Tel: 802-585-5964 Fax: 802-828-2154 E-Mail: todd.daloz@vermont.gov.

Birth Center Licensing Rule.

Vermont Proposed Rule: 26P029

AGENCY: Agency of Human Services, Department of Health

CONCISE SUMMARY: This rule sets forth the standards that apply to the licensing of birth centers in Vermont. This rulemaking establishes the process by which a birth center can apply for a license in Vermont.

FOR FURTHER INFORMATION, CONTACT: Meg McCarthy, Policy Advisor, Agency of Human Services - Vermont Dept. of Health, 280 State Drive Waterbury, VT 05671 Tel: 802-904-9319 E-mail: ahs.vdhrules@vermont.gov

URL: http://www.healthvermont.gov/laws-regulations/laws/rules-public-comment. FOR COPIES: Jessica Schifano, Policy Director, Agency of Human Services - Vermont Department of Health 280 State Drive, Waterbury, VT 05671 Tel: 802-798-6756 E-mail: ahs.vdhrules@vermont.gov.
