FINAL PROPOSED RULE # 26-P028

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:

Age Assurance Privacy

/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:
Age Assurance Privacy

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
26P028

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: todd.daloz@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:
(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:
(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

9 V.S.A § 2449g(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. § 2449g governing age assurance for covered minors. This Rule implements that statutory directive by defining statutory terms, establishing standards governing age assurance, and providing guidance regarding compliance with the requirements of § 2449g. The Rule is intended to implement the statutory requirements through flexible, technology-neutral standards that protect covered minors while minimizing unnecessary collection and processing of personal data.
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. § 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 § 2449g.

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. § 2449g. The statute establishes general requirements governing age assurance for covered minors and directs the Attorney General to adopt implementing rules. This Rule defines statutory terms, establishes standards governing the selection and use of age assurance processes and techniques, and provides guidance regarding privacy, data minimization, accuracy, appeals, and compliance. The Rule promotes consistent implementation and enforcement of the statute while allowing covered businesses flexibility to adopt proportionate, technology-neutral age assurance methods.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The Rule is based on the Legislature's directive in Act 63 requiring the Attorney General to adopt rules implementing 9 V.S.A. § 2449g. In developing the Rule, the Office reviewed the statutory text and legislative findings, comparable laws and guidance from other jurisdictions, current age assurance technologies and industry practices, and relevant judicial decisions addressing similar statutory frameworks. The Rule was revised through multiple rounds of internal legal review to ensure it remained closely tied to the statutory requirements, employed technology-neutral and proportionate standards, protected privacy, and provided clear guidance to regulated entities. The Office determined that these provisions reasonably implement the Legislature's directive based on the legal, technical, and policy information considered during the rulemaking process.

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

Affected people include covered minors and their families; affected entities include covered businesses that operate online services, products, or features

reasonably likely to be accessed by covered minors; third-party age assurance providers and other vendors that provide age assurance, identity credential, privacy, or compliance services to covered businesses; and the Office of the Attorney General, which is responsible for administering and enforcing the Rule. Other governmental entities, including Vermont courts, may be affected to the extent they are involved in enforcement or judicial review of the Rule.

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

The Rule primarily implements and clarifies the statutory requirements established by Act 63 by providing definitions, interpretive standards, and implementation guidance governing age assurance. As a result, many compliance obligations arise from the statute rather than this Rule. Covered businesses may incur administrative costs associated with reviewing existing age assurance practices, updating policies and procedures, training personnel, and implementing changes necessary to comply with the Rule. Compliance costs will vary depending on the size of the business, the nature of its online services, and existing compliance programs. The Rule is expected to reduce regulatory uncertainty by providing clear, technology-neutral standards that allow businesses flexibility in selecting proportionate age assurance methods while protecting the privacy of covered minors.

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 St., White River Juntion VT
Zip Code: 05001
URL for Virtual:

Date: 9/23/2026
Time: 05:00 PM
Street Address: 5376 Shelburne Road, 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).

Age Assurance

Age Appropriate Design Code

Age Assurance Rulemaking

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. § 2449g

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. Applicability

The AGO clarified that the rule addresses age assurance where reasonably necessary for a covered business to comply with an applicable obligation under 9 V.S.A. §§ 2449c–2449g. The final text does not require a particular identity-based method or a universal age check. It permits a business to treat a user as a covered minor rather than collect additional age data when doing so allows statutory compliance. The revision aligns implementation with the Legislature's age-assurance privacy mandate in § 2449g and avoids making data collection an end in itself.

II. Definitions

The AGO revised the definitions of age assurance, age assurance data, age signal, error rate, fallback, linkability, privacy-invasive age assurance, and proportionate age assurance. In particular, the age-assurance-data definition distinguishes personal data collected to make a determination from the resulting age-range determination, while preserving applicable restrictions and the express age-range exception to deletion in 9 V.S.A. § 2449g(a)(2). The revisions clarify what data is regulated without creating an implied exemption for other uses.

III. Age Assurance Selection

The AGO replaced language that could be read as favoring a prescribed method with a technology-neutral, context-specific selection standard. The final rule identifies self-declaration,

existing signals, privacy-preserving credentials or tokens, estimation, and combinations as potential methods without establishing a mandatory hierarchy. Selection takes account of commercial reasonableness, technical feasibility, privacy, accessibility, cost, and confidence. This implements the factors identified in § 2449g while avoiding unnecessary collection of identifying information.

IV. Graduated Escalation

The AGO replaced rigid classifications of low-, moderate-, and high-intrusiveness techniques with functional considerations such as sensitivity, collection, transmission, retention, and linkability. The final text favors consideration of less intrusive alternatives and calls for documentation when a selection materially increases privacy risks, rather than mandating a particular escalation ladder. This better accommodates different services and methods while preserving the privacy-focused direction of § 2449g.

V. Accuracy and Error Evaluation

The AGO revised the accuracy provisions to address both false negatives and false positives, including the risk that adults will be incorrectly classified as minors. The final rule requires attention to known limitations and meaningful correction where a material risk of misclassification exists, while prioritizing privacy and accessibility over marginal accuracy gains. The change reflects the Legislature's direction that age assurance be implemented in a privacy-protective and accessible manner. 9 V.S.A. § 2449g.

VI. Frequency and Reassessment

The AGO clarified that businesses should not repeatedly reverify users or engage in continuous tracking without need. The final text also expressly preserves the immediate-deletion obligation for personal data collected for age assurance; reassessment is not an implied retention exception. 9 V.S.A. § 2449g(a)(2).

VII. Data Minimization in Age Assurance

The AGO clarified that collection must be limited to the personal data reasonably necessary to make the age-related determination and that such personal data must be deleted immediately after that determination, except for the age range permitted by statute. The AGO removed or narrowed language that could have allowed retention for auditing, fraud prevention, security, or compliance as additional regulatory exceptions. The purpose is to conform strictly to the deletion command in 9 V.S.A. § 2449g(a)(2), rather than create exceptions the Legislature did not provide.

VIII. Linkability and System Design

The AGO revised the section to reduce unnecessary linking of age-assurance information across services or contexts and to encourage minimally revealing outputs. The final language does not establish an exception to the statutory deletion requirement or authorize secondary use of age-assurance data. These revisions implement the privacy and data-use restrictions in 9 V.S.A. § 2449g.

IX. Prohibited Uses, Retention, and Disclosure of Age Assurance Data

The AGO clarified that personal data collected for age assurance may be used for the age-related determination as permitted by statute and may not be retained, disclosed, combined, or repurposed in violation of the statutory restrictions. The revised language also addresses age-assurance service providers without relieving covered businesses of their statutory responsibilities. The revisions preserve the distinction between the express age-range retention exception and any separate authorization to use data for another purpose. 9 V.S.A. § 2449g(a).

X. Fallback and Accessibility

The AGO revised fallback requirements to recognize accessible alternatives where available and to avoid demanding an identity-based process as a universal fallback. The provision also clarifies that the rule does not create a right of access contrary to other applicable law. The change balances accessibility, privacy, and lawful operation within the framework of § 2449g.

XI. Appeals Process

The AGO revised the appeals provisions to permit meaningful reconsideration through automated methods or an alternative age-assurance method where effective, with human review when those approaches cannot reasonably resolve a dispute. The revision is intended to preserve a workable way to contest consequential errors without imposing a universal human-review mandate or permitting unnecessary retention of personal data collected during an appeal. 9 V.S.A. § 2449g.

XII. Compliance and Oversight

The AGO narrowed the documentation provisions to a proportionate approach and clarified that the absence of a particular document alone does not establish a violation. The revision reduces the risk of creating an independent recordkeeping offense unrelated to statutory age-assurance obligations while allowing relevant compliance evidence to be considered. 9 V.S.A. § 2449g.

XIII. Illustrative Examples

The AGO clarified that illustrations are nonexclusive aids to interpretation and do not expand the operative prohibitions or establish a mandated age-assurance technology. This addresses the risk of examples being mistaken for freestanding requirements.

XIV. Severability

The AGO added a severability clause to preserve the operation of independent provisions if another provision is held invalid. It does not change the substantive scope of the rule.
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 its consideration of significant public comments.

Sincerely,

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

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.

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1. TITLE OF RULE FILING:
   Age Assurance Privacy
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.

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1. TITLE OF RULE FILING:

   Age Assurance Privacy

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 reduce compliance burdens on small businesses by allowing flexibility in how they satisfy the statutory requirements of Act 63. Rather than requiring the use of any particular technology, vendor, or age assurance process or technique, the Rule establishes technology-neutral, proportionate, and performance-based standards that permit businesses to select compliance methods appropriate to the nature of their online services and the risks presented. Small businesses may reduce compliance costs by relying on existing privacy or compliance programs where appropriate, selecting lower-intrusion age assurance methods where sufficient under the Rule, and using commercially available age assurance or compliance services if they determine those services are appropriate. Because the Rule primarily provides implementation guidance for statutory requirements established by Act 63, the Office determined that creating separate substantive compliance standards or exemptions for small businesses would not be appropriate, as doing so could undermine consistent implementation 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 considered alternatives to the proposed Rule, including adopting no rule, adopting more prescriptive age assurance requirements, and adopting separate compliance requirements for small businesses.

Adopting no rule would not satisfy the Attorney General's statutory rulemaking obligations under Act 63 and would likely increase compliance costs by leaving covered businesses without definitions, interpretive standards, or implementation guidance regarding the statute's age assurance requirements. The Office also considered more prescriptive approaches requiring particular technologies, identity verification methods, or third-party vendors but concluded that such approaches would likely increase compliance costs, reduce flexibility, and require businesses to adopt technologies that may not be appropriate for all services. Instead, the proposed Rule establishes technology-neutral, proportionate standards that allow covered businesses to select age assurance processes or techniques appropriate to the risks presented by their services while emphasizing privacy and data minimization. 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 proposed Rule instead minimizes burdens on businesses of all sizes by allowing flexible compliance methods 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 conducted this analysis by reviewing the proposed Rule, Act 63, and the statutory requirements of 9 V.S.A. § 2449g to determine whether the Rule would require activities with reasonably foreseeable environmental effects. The Office evaluated the Rule's regulatory requirements and concluded that it establishes standards governing age assurance, data processing, and business practices rather than requiring construction, physical infrastructure, land use changes, manufacturing, or other activities that would reasonably be expected to affect natural resources, air, water, or energy consumption. The analysis was based on the text of the proposed

Rule, the governing statute, and the Office's understanding of the Rule's implementation.

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

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1. TITLE OF RULE FILING:

   Age Assurance Privacy

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 conducted this analysis by reviewing the proposed Rule, Act 63, and the statutory requirements of 9 V.S.A. § 2449g to determine whether the Rule would require activities with reasonably foreseeable environmental effects. The Office evaluated the Rule's regulatory requirements and concluded that it establishes standards governing age assurance, data processing, and business practices rather than requiring construction, physical infrastructure, land use changes, manufacturing, or other activities that would reasonably be expected to affect natural resources, air, water, or energy consumption. The analysis was based on the text of the 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:

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1. TITLE OF RULE FILING:

   Age Assurance Privacy

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:

   Prior to filing the proposed Rule, the Office of the Attorney General developed the Rule through multiple rounds of internal legal review by attorneys within the Office, including review by the Attorney General and Solicitor General. In developing the Rule, the Office considered the statutory requirements and legislative findings of Act 63, comparable laws and regulatory approaches adopted or proposed in other jurisdictions, relevant judicial decisions, publicly available technical and policy guidance regarding age assurance and privacy, and issues raised during discussions concerning implementation of the Act. Although the Office did not circulate draft rules outside the Office prior to formal rulemaking, it developed the proposed Rule with the expectation of obtaining broad public input through the formal rulemaking process.

   Following publication of the proposed Rule, the Secretary of State carried out its established rulemaking notice procedures. The Vermont Attorney General's Office (AGO) posted rulemaking information on

its website, including information about opportunities to participate in public hearings and submit written comments. The AGO held public hearings on September 9, September 21, and September 23, 2026, and accepted written comments through October 2, 2026. Written submissions are available on the AGO's public-comment webpage. At the first hearing, a news outlet representative asked a question; at the second, a Vermont senator asked procedural questions; and at the third, four speakers provided brief presentations on matters also addressed in written submissions. The AGO reviewed and considered the written comments in preparing the final proposed Rule. The accompanying synopsis of oral comments, responsiveness summary, and letter explaining changes document the public input and the AGO's response to it.

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

   Prior to filing the proposed Rule, the Rule was developed through review by attorneys within the Office of the Attorney General, including the Attorney General and Solicitor General.

   During the formal rulemaking process, participants included Senator Wendy Harris, who asked questions about the rulemaking process at the second hearing, and Kyle Sepe (Computer & Communications Industry Association), Amy Bos (NetChoice), Abigail Wilson (Software & Information Industry Association), and Jason Van Driesche (Front Porch Forum), who spoke at the third hearing. A representative of a news outlet asked a question at the first hearing. The AGO also received 32 written comments from individuals and organizations identified in the accompanying complete written-comment record, including affected businesses and trade associations, privacy and consumer advocates, child-safety advocates, and other interested persons. Public participation opportunities were announced through the formal notice process and the AGO's rulemaking website.

Responsiveness Summary

§ 2449g — Age Assurance Privacy | 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 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 — universal age assurance

Comments: Argue draft could require all covered businesses to determine every user's age; privacy advocates warn this could cause unnecessary collection and access barriers; industry argues § 2449g does not itself create a universal mandate. (NetChoice, p. 5; MPA, p. 2; EPIC, p. 4; KGI, p. 9.)

Response: The AGO agrees that age assurance should not be implemented in a manner that causes unnecessary collection of personal data or indiscriminate identity verification. The final rule clarifies when age assurance is required and preserves the statute's privacy-first framework. *See* 9 V.S.A. §§ 2449a, 2449g; final rule, Applicability.

III. Safeguards apply to all users undergoing age assurance

Comments: Recommend replacing 'covered minor' with consumer/user in process safeguards because adults also undergo age assurance before the result is known. (EPIC, p. 2; KGI, p. 4.)

Response: The AGO agrees. Because § 2449g(a) protects users during age assurance regardless of the ultimate age determination, the final rule has been revised to use 'user' where appropriate. *See* 9 V.S.A. § 2449g(a); final rule, Applicability and Definitions.

IV. Proportionate age assurance / business discretion

Comments: EPIC/KGI question leaving broad proportionality judgments to businesses; ACT/industry favor flexible risk-based methods; FPF asks clarification that escalation is a factor. (ACT, p. 3; FPF, p. 4; EPIC, p. 19; KGI, p. 6.)

Response: The AGO declines to eliminate proportionality. The statutory factors contemplate variation among businesses, services, and methods. The final rule clarifies

the factors governing that analysis and the statutory priority given to privacy and accessibility. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

V. Graduated escalation / intrusion categories

Comments: Argue categorical low/moderate/high labels do not reliably measure privacy intrusion; credential/ZKP architecture may expose less data than behavioral profiling. (FPF, p. 9; EPIC, p. 19; KGI, p. 10; Internet Works, p. 4.)

Response: The AGO agrees that the privacy impact of an age-assurance method depends on how the method is implemented, not solely on the category of signal used. The final rule has been revised to emphasize functional privacy and accessibility factors. *See* 9 V.S.A. § 2449g(b); final rule, Graduated Escalation.

VI. Government ID / credential-based methods

Comments: Some strongly oppose ID/facial verification; others use or favor credential methods. Privacy advocates note privacy-preserving credentials can be low-data if processed on device. (EPIC, p. 24; KGI, p. 8.)

Response: The AGO agrees that the rule should not require government identification or any particular credential. The final rule remains technology-neutral and evaluates methods based on privacy, accessibility, effectiveness, and other statutory factors. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

VII. Biometrics / continuous authentication

Comments: Helix favors passive biometrics/continuous authentication and criticizes restrictions on repeated reassessment; others strongly oppose facial/biometric verification and surveillance.

Response: The AGO declines to require biometric or continuous-authentication methods. The statute directs the AGO to prioritize privacy and accessibility, and the final rule preserves flexibility while limiting unnecessary repeated collection or monitoring. *See* 9 V.S.A. § 2449g(b); final rule, Graduated Escalation and Frequency and Reassessment.

VIII. Zero-knowledge proofs / privacy-preserving credentials

Comments: KGI recommends requiring ZKP once technically feasible; EPIC/CIVITERA cite privacy-preserving assertions as promising architecture. (EPIC, p. 25; KGI, p. 11.)

Response: The AGO agrees that privacy-preserving credentials and cryptographic proofs may reduce unnecessary disclosure. The AGO declines to mandate a particular technical architecture and retains a technology-neutral standard. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

IX. Use previously collected data

Comments: Some recommend first using reliable existing signals to avoid new collection; others warn behavioral profiling can itself be intrusive. (EPIC, p. 26; KGI, p. 5; CIVITERA, p. 4.)

Response: The AGO agrees that previously collected data may sometimes reduce additional collection, but it may also create privacy and linkability risks. The final rule treats existing signals as one factor rather than an unconditional requirement. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

X. Deletion / retention of age-assurance data

Comments: Privacy commenters seek strong deletion including derived/combined data; industry seeks safety/fraud exceptions and operational flexibility. (NetChoice, p. 4; SIIA, p. 1; EPIC, p. 29; KGI, p. 10.)

Response: The AGO declines to create a broad retention exception for data collected for age assurance because § 2449g(a)(2) expressly requires immediate deletion, except for the age-range determination. The final rule clarifies the treatment of data created or held solely for age assurance. *See* 9 V.S.A. § 2449g(a)(2); final rule, Data Minimization in Age Assurance.

Final-text clarification: The final rule requires deletion immediately after the age-related determination except for the age range and creates no additional retention exception for auditing, fraud prevention, security, or compliance.

XI. Secondary use / combination / advertising

Comments: Privacy commenters seek strict separation and advertising restrictions; industry seeks safety/fraud flexibility. (NetChoice, p. 4; SIIA, p. 2; EPIC, p. 6; KGI, p. 12.)

Response: The AGO declines to create exceptions that would permit personal data collected for age assurance to be repurposed or combined contrary to § 2449g(a)(3)-(4). The final rule clarifies the distinction between underlying age-assurance data and the permitted age-range determination. *See* 9 V.S.A. § 2449g(a); final rule, Prohibited Uses, Retention, and Disclosure of Age Assurance Data.

XII. Linkability / fraud and safety

Comments: Industry says restrictions can impede detection of repeat underage users/fraud; privacy commenters warn against identity linkage across services. (SIIA, p. 2.)

Response: The AGO recognizes the importance of fraud prevention and safety. The final rule clarifies that the statutory restrictions apply to personal data collected for age assurance and do not independently prohibit lawful safety or security processing using other data permitted by Act 63. *See* 9 V.S.A. § 2449g(a)–(b); final rule, Linkability and System Design.

XIII. Appeals — meaningful review / fallback

Comments: Broad support for meaningful appeals; industry seeks ability to reject abusive/bad-faith repeated appeals; privacy/technical commenters seek alternative reassessment and prompt correction. (SIIA, p. 2; EPIC, p. 19; KGI, p. 25; CIVITERA, p. 4.)

Response: The AGO retains a meaningful appeal process as required by § 2449g(a)(6). The final rule clarifies reassessment and correction while allowing reasonable procedures to address abusive or duplicative submissions that do not impair a user's opportunity for review. *See* 9 V.S.A. § 2449g(b); final rule, Appeals Process and Fallback and Accessibility.

XIV. Accuracy / material risk of misclassification

Comments: FPF seeks clearer thresholds; KGI seeks quantitative standards; TechNet warns accuracy criteria may force more intrusive methods; Helix favors more accurate continuous methods. (NetChoice, p. 2; TechNet, p. 2; FPF, p. 9; KGI, p. 15.)

Response: The AGO agrees that businesses need clearer guidance regarding material error risk but declines to adopt a universal numerical accuracy threshold. The statute requires privacy and accessibility to be prioritized over accuracy, and the final rule reflects that hierarchy. *See* 9 V.S.A. § 2449g(b); final rule, Accuracy and Error Evaluation.

XV. Accuracy/error evaluation frequency

Comments: KGI seeks robust testing; SIIA/ACT object to rigid burdens; FPF seeks technical clarity. (NetChoice, p. 2; SIIA, p. 3; ACT, p. 3; FPF, p. 9.)

Response: The AGO retains reasonable evaluation requirements because effectiveness is a statutory consideration, but has clarified frequency and proportionality to avoid unnecessary testing burdens. *See* 9 V.S.A. § 2449g(b); final rule, Accuracy and Error Evaluation.

XVI. Disparate impact / accessibility testing

Comments: KGI supports subgroup analysis; ACT asks proportionality; statute prioritizes accessibility. (ACT, p. 3; EPIC, p. 19; KGI, p. 5.)

Response: The AGO agrees that accessibility and differential performance are relevant, but the final rule avoids requiring unnecessary collection of sensitive personal data solely to conduct evaluation. *See* 9 V.S.A. § 2449g(b); final rule, Accuracy and Error Evaluation.

XVII. Compliance assessments / documentation

Comments: KGI seeks extensive documentation/public disclosure/third-party certification; industry says assessments exceed authority; CIVITERA recommends minimal evidence sufficient to verify controls. (SIIA, p. 1; KGI, p. 5; CIVITERA, p. 4.)

Response: The AGO retains limited documentation necessary to demonstrate compliance but declines to require public disclosure or annual third-party certification. The final rule seeks accountability without creating unnecessary privacy, security, or administrative burdens. *See* 9 V.S.A. § 2449g(b); final rule, Compliance and Oversight.

XVIII. Third-party vendor accountability

Comments: Support responsibility for processors/vendors, with industry concern about rigid requirements. (KGI, p. 21; CIVITERA, p. 4.)

Response: The AGO retains vendor-neutral requirements applicable to covered businesses and processors. The final rule does not mandate any particular provider or certification. *See* 9 V.S.A. § 2449g(a); final rule, Prohibited Uses, Retention, and Disclosure of Age Assurance Data.

XIX. Interoperability

Comments: Support interoperability but warn against universal identifiers/cross-service behavioral tracking; favor narrow age assertions. (CIVITERA, p. 1; Internet Works, p. 4.)

Response: The AGO agrees that interoperability can reduce repeated collection but should not create a universal tracking mechanism. The final rule emphasizes privacy-preserving age-range assertions and data minimization. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

XX. Multiple methods / fallback / accessibility

Comments: Favor multiple options and fallback to avoid exclusion; some small businesses seek commercial-reasonableness limits. (EPIC, p. 29; KGI, p. 5; CIVITERA, p. 4.)

Response: The AGO retains fallback and accessibility protections because they directly advance the statutory priority of accessibility and the direction to consider multiple age-assurance options. *See* 9 V.S.A. § 2449g(b); final rule, Fallback and Accessibility.

XXI. Parent/guardian identity verification vs minor age assurance

Comments: Requests clarification that verifying a parent/guardian's identity/adulthood for consent is not itself age assurance of the minor; asks recognition of COPPA VPC methods.

Response: The AGO agrees that verification of a parent or guardian for a separate legal purpose is conceptually distinct from determining the minor user's age. The AGO declines to provide a categorical safe harbor for COPPA consent methods because

compliance with § 2449g presents a separate inquiry. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

XXII. Continuous/repeated reassessment

Comments: Helix favors continuous authentication; privacy commenters support limits on persistent monitoring while recognizing changed circumstances may warrant reassessment. (EPIC, p. 12; KGI, p. 24; CIVITERA, p. 5.)

Response: The AGO declines to require continuous reassessment. The final rule permits reassessment when reasonably justified while limiting unnecessary persistent monitoring or collection. *See* 9 V.S.A. § 2449g(a)(2), (b); final rule, Frequency and Reassessment.

XXIII. Technical standards / ISO / certification

Comments: Helix urges ISO 27566; Internet Works cites ISO/Ofcom/New York approaches; KGI seeks certification. (KGI, p. 1; Internet Works, p. 4.)

Response: The AGO declines to mandate a particular technical standard or certification. Recognized standards may be relevant evidence, but the final rule remains technology neutral and capable of adapting to emerging technology. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

XXIV. Public transparency about age assurance

Comments: Seek public descriptions/assessments of methods and performance. (EPIC, p. 19; KGI, p. 20.)

Response: The AGO agrees that appropriate transparency can increase consumer trust, as recognized by § 2449g(b)(2)(B)(iv), but declines to require disclosure of sensitive technical information that could create privacy, security, or circumvention risks. *See* 9 V.S.A. § 2449g(b); final rule, Compliance and Oversight.

XXV. First Amendment / anonymous access implications of age assurance

Comments: Some argue age assurance burdens anonymous access and speech; privacy advocates warn against age gating entire services and excessive identity collection. (NetChoice, p. 3; EPIC, p. 2.)

Response: The AGO considered the effect of age assurance on privacy, anonymous access, and access to information. The final rule does not require identity verification or government identification and is designed to minimize collection and burden consistent with Act 63. See 9 V.S.A. § 2449g(b); final rule, Applicability and Appeals Process.

XXVI. 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. The final rules are drafted and interpreted consistently with Act 63's express protections for access to media. *See* 9 V.S.A. § 2449g(b); final rule, Applicability.

XXVII. 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 rule's core protections while refining language for clarity, proportionality, and statutory fit. *See* 9 V.S.A. § 2449g(b); final rule, Age Assurance Selection.

XXVIII. 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). The comment may identify an issue for separate legislative, enforcement, or policy consideration. *See* 9 V.S.A. § 2449g(b).

Synopsis of Oral Comments Received

Final Proposed Rule: Age Assurance Privacy

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

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.

I. 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.

II. 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.

III. 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.

IV. 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.

SUBJECT: CONSUMER PROTECTION –
AGE ASSURANCE PRIVACY

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

CP __ Applicability
CP __ Definitions
CP __ Age Assurance Selection
CP __ Graduated Escalation
CP __ Accuracy and Error Evaluation
CP __ Frequency and Reassessment
CP __ Data Minimization in Age Assurance
CP __ Linkability and Design
CP __ Prohibited Uses, Retention, and Disclosure of Age Assurance Data
CP __ Fallback and Accessibility
CP __ Appeals Process
CP __ Compliance and Oversight
CP __ Illustrative Examples
CP __ Severability

CP __ Applicability

(a) **This Rule** ~~regulates~~governs **the collection, use,** ~~and~~ **processing**, and deletion **of** personal **data in age assurance** ~~systems and is intended to govern business conduct and system design. The Rule~~ processes or techniques used by covered businesses. This Rule **does not mandate** ~~the use of any specific~~ a particular **technology**~~, does not require~~ or **identity-based age verification**~~, and does not restrict access to particular content. It adopts a flexible, proportionate framework to protect covered minors and minimize privacy concerns. Nothing in this Rule shall be construed to require monitoring of a covered minor's activity beyond what is reasonably necessary to implement age assurance~~ method**.**

(b) **This Rule applies where a covered business knows** ~~or reasonably should know~~ **that a user is a covered minor** as defined in 9 V.S.A. § 2449a. Nothing in this Rule alters 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**.**

~~[(a)]~~ (c) A covered business shall implement proportionate age assurance measures ~~for any online service, product, or feature reasonably likely to be accessed by covered minors.~~

~~(d)~~ ~~A~~where age assurance is reasonably necessary to comply with any applicable obligations under 9 V.S.A. §§ 2449c–2449g. Nothing in this Rule requires a covered business to collect personal data where it can comply with those obligations by treating a user as a **covered** ~~business shall determine whether a user is a covered minor using a proportionate age assurance method~~minor**.**

(d) Where age assurance is reasonably necessary, a covered business shall use a proportionate age assurance process or technique.

(e) Age assurance shall be conducted using ~~the least intrusive age assurance~~a privacy-protective process or technique reasonably available that achieves the ~~reasonably necessary~~ level of confidence~~.~~

~~(f) A covered business shall exercise reasonable care in selecting and implementing age assurance processes or techniques.~~

~~(g)~~ appropriate to the applicable obligation, giving priority to user privacy and accessibility over accuracy, consistent with 9 V.S.**A** ~~covered business shall maintain documentation sufficient to demonstrate compliance with this Rule~~. § 2449g**.**

CP ___ Definitions

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

(b) "Age assurance" ~~means~~ ~~any system,~~a process~~,~~ or technique~~, or practice~~ used to determine, estimate, or communicate the age or age range of a user, including whether ~~a~~the user is a covered minor.

~~[1.] Age assurance includes techniques such as:~~

~~[i.] Age estimation based on device data, usage data, account information, or other signals;~~

~~[ii.] Techniques that rely on~~ Methods may include self-declaration, estimation, credentials, ~~documentation, or authoritative records;~~

~~[iii.] Use of third-party age tokens, digital identity systems, or age credentials;~~

~~[iv.] Self-declaration mechanisms used in combination with reasonable safeguards; or~~

~~[v.] Hybrid approaches combining multiple age assurance techniques or processes.~~

~~[2.] Age assurance includes the collection, analysis, generation, transmission, storage, retention, and use of inputs, outputs, and processing steps used to determine, estimate, communicate, or assign age status, including:~~

~~[i.] Collection or analysis of data, signals, or identifiers;~~

~~[ii.] Model inference, classification, estimation, or age determination;~~

~~[iii.] Generation or transmission of age signals, age tokens, or age credentials; or~~
~~[iv.] Storage, retention, or use of age-related determinations or classifications.~~

~~[3.] Illustrative examples of age assurance include, but are not limited to:~~

~~[i.] Self-declaration or date of birth entry mechanisms used in combination with additional safeguards or contextual indicators;~~
~~[ii.] Estimation of age based on device signals, account information, or usage patterns;~~

~~Use of a third-party provider offering~~ privacy-preserving age ~~credentials, digital identity credentials, age tokens, digital wallet credentials, or cryptographic proofs of age or age eligibility; or~~signals, and combinations of methods; no method is inherently required or preferred.

~~[iii.] Assignment of an age category, age signal, or age status used to enable, restrict, or modify features or functionality.~~

~~(c) "Age-based access control" means a system, feature, design, or practice that uses age-related determinations, age status, age signals, or age ranges to enable, restrict, modify, or otherwise influence a user's access to an online service, product, feature, or funtionality.~~

~~(d) "Age estimation" means a system, feature, design, or practice that evaluates characteristics, device data, or usage signals to infer an approximate age or age range.~~

~~(e) "Age signal" means any data, identifier, flag, token, classification, or other output used to indicate, communicate, or represent a covered minor's age or age range, whether directly determined or inferred.~~

~~(f) "Credential-based age assurance" means an age assurance process or technique that relies on documentation, identity records, authoritative records, or third-party validation to determine, confirm, or support a covered minor's age or age range.~~

~~(g)~~ (c) "Age assurance data" means personal data collected for the purpose of making an age-related determination, including personal data supplied to or obtained by an age assurance provider for that purpose. This term does not expand the statutory prohibition on uses of personal data collected for age assurance to an age-range determination generated by the process, but the determination remains subject to applicable law and the deletion exception in 9 V.S.A. § 2449g(a)(2).

(d) "Age signal" means an output indicating or communicating an age range or age-related status.

(e) "Error rate" means the frequency of incorrect age-related **determinations, including** ~~false positives (adult~~adults classified as minors and minors **classified as** ~~minor) and false negatives (minor classified as adult).~~adults.

~~(h)~~ f) **"Fallback mechanism" means an alternative** ~~age assurance~~ **process or technique** ~~used~~available **where** ~~a~~the **primary age assurance process fails, produces an inconclusive result, or cannot reasonably** ~~determine a user's age or age range~~be used**.**

~~(i) "Highly intrusive age assurance" means an age assurance process or technique that involves the collection or processing of biometric data, identity documentation, persistent identifiers, sensitive personal data, or other data practices that create a significant risk of linkability to a covered minor.~~

~~(j)~~ (g) **"Linkability" means the ability to associate a** ~~covered minor~~ user **across services, sessions,** accounts, devices, **or contexts,** ~~whether~~ **directly or indirectly.**

~~(k)~~ (h) "Privacy-invasive age assurance" means a process or technique that, based on its design and operation, creates a material privacy risk considering the amount and sensitivity of personal data collected, transmission, retention, linkability, disclosure, secondary use, or persistent identification.

(i) "Proportionate age assurance" means an age assurance process or technique ~~calibrated to the risks posed by an online service, product, or feature and implemented using the least intrusive means reasonably available.~~

~~[1.] An age assurance process or technique is not proportionate where a less intrusive age assurance process or technique would reasonably achieve a comparable level of accuracy.~~

~~[2.] Proportionate age assurance shall be evaluated based on:~~

~~[i.] Privacy impact and data minimization;~~
~~[ii.] Accessibility and ease of use for covered minors;~~
~~[iii.] The burden imposed on covered minors;~~
~~[iv.] The sensitivity and risk profile of the online service, product, or feature;~~
~~[v.] The availability of less intrusive alternatives; and~~

~~The~~selected in light of the applicable statutory obligation, the **reasonably necessary level of** ~~accuracy or~~ **confidence** ~~required for age determination~~, and the priority afforded to privacy and accessibility under 9 V.S.A. § 2449g**.**

~~(l) "Strictly necessary" means the minimum amount of personal data required to determine whether a user is a covered minor.~~

CP __ Age Assurance Selection

(a) ~~A~~Where age assurance is necessary to comply with an applicable statutory obligation, a **covered business shall select** a commercially reasonable **and** ~~implement an age assurance~~ technically feasible **process or technique** ~~based on~~in light of**:**

~~1. The reasonably foreseeable risk of material privacy, safety, or accessibility harms to covered minors associated with the online service, product, or feature;~~

[1.] ~~2.~~ The applicable statutory obligation and the age-related determination needed for compliance;

1. **The** amount and **sensitivity**~~, functionality, and risk profile~~ of personal data collected or processed;
2. **Whether data is processed locally or transmitted, and the risks of** ~~the online service, product~~retention, disclosure, linkability**, or** ~~feature~~secondary use**;**

[2.] ~~3.~~ Accessibility and the burdens imposed on users, including users who cannot use a particular method;

3. More privacy-protective reasonably available alternatives; and
4. **The level of** ~~accuracy or~~ **confidence reasonably necessary for the age-related determination**~~;~~, giving priority to privacy and accessibility over marginal gains in accuracy.

~~4. The privacy, accessibility, and data minimization impacts of the age assurance process or technique;~~

~~5. The availability of less intrusive age assurance alternatives; and~~

~~6. Whether the age assurance process or technique imposes unreasonable burdens on covered minors.~~

(b) Depending on the circumstances, commercially reasonable and technically feasible processes or techniques may include self-declaration, existing age signals, privacy-preserving age credentials or tokens, estimation, or a combination of methods. This subsection identifies possible methods, not a preferred hierarchy or a requirement to collect additional personal data.

CP ___ Graduated Escalation

(a) A covered business shall ~~apply~~ consider more privacy-protective reasonably available **age assurance** ~~using a graduated escalation approach as follows:~~methods before selecting a method that creates greater privacy risks.

~~Low-intrusion age assurance.~~ (b) In evaluating privacy impacts, the covered business shall consider the amount and sensitivity of personal data collected, whether raw

personal data is transmitted, retention, linkability, disclosure, secondary use, persistent identification, accessibility, and user burden.

(c) No age assurance process or technique, including self-declaration, estimation, credential-based methods, biometric methods, device-based methods, or privacy-preserving credentials, is inherently required or preferred under this Rule.

~~1.~~ (d) A covered business ~~shall first~~may use ~~age assurance~~multiple processes or techniques ~~that rely on minimal data collection or processing, including:~~

~~i. Self-declaration mechanisms used in combination with reasonable safeguards;~~
~~ii. Use of existing age signals that do not require additional personal data collection; or~~
~~iii. Contextual, account-based, or session-based indicators.~~

~~**Moderate-intrusion age assurance. Where low-intrusion age assurance processes or techniques are not reasonably available or sufficient to achieve the**~~ where **reasonably necessary** ~~level of accuracy or confidence, a covered business may use:~~, provided that each complies with applicable privacy, accessibility, minimization, and proportionality requirements.

~~i. Age estimation processes~~(e) Before using a process or ~~techniques based on device data, account information, usage patterns, or other signals; or~~
~~ii. Hybrid age assurance processes or techniques combining estimation with limited additional inputs.~~

~~3. Higher-intrusion age assurance.~~ A~~technique that materially increases privacy risks,~~ a covered business ~~may use credential-based age assurance only where:~~

~~**i.** Lower-intrusion age assurance processes or techniques are not~~shall consider whether a more privacy-protective **reasonably available** ~~and sufficient to~~alternative can **achieve the reasonably necessary level of** ~~accuracy or~~ **confidence**~~; and~~.

~~ii. The online service, product, or feature presents a reasonably foreseeable risk of material privacy, safety, or accessibility harms to covered minors.~~

~~(b) A covered business shall not require the use of a highly intrusive age assurance process or technique where less intrusive age assurance processes or techniques are reasonably available, proportionate, and sufficient to address the reasonably foreseeable risk of material privacy, safety, or accessibility harms to covered minors posed by the online service, product, or feature.~~

~~(~~e(f) A covered business shall ~~provide a fallback mechanism for any age assurance process or technique used.~~

~~(d) Prior to selecting a moderate-intrusion or higher-intrusion age assurance process or technique, a covered business shall:~~

~~1. Evaluate at least one lower-intrusion alternative;~~
~~2. Document why such alternative is not~~maintain documentation reasonably ~~available or~~ sufficient to ~~achieve the reasonably necessary level of accuracy or confidence; and~~

~~3. Document~~explain **the basis for selecting** ~~the age assurance~~a **process or technique** ~~used~~where the selection materially increases privacy risks.

CP __ Accuracy and Error Evaluation

(a) A covered business shall ~~evaluate~~consider the known accuracy ~~and~~, error rates, and limitations of ~~any age assurance process or technique used.~~

~~(b) Evaluation shall include:~~
~~[1.] False positives;~~
~~[2.] False negatives;~~
~~[3.] Any known limitation of the age assurance process or technique;~~
~~[4.] The methodologies used to evaluate accuracy and error rates; and~~
~~[5.] The sampling approaches, assumptions, or testing conditions used in conducting such evaluation.~~

~~(c) A covered business shall not use~~ an age assurance process or technique ~~where the error rate creates a material risk of misclassification of covered~~ used, including false positives (adults classified as minors~~.~~

~~(d) A covered business shall evaluate whether error rates:~~

~~D~~isproportionately affect certain covered) and false negatives (**minors** ~~or groups of covered minors;~~classified as adults).

~~[1.] Result in systematic under-classification or over-classification of covered minors; or~~

~~Result in materially~~ (b) The evaluation shall take account of reasonably available information about material limitations, **disproportionate** ~~error rates,~~errors, and **accessibility barriers,** ~~or adverse outcomes~~without requiring collection or retention of personal data prohibited by 9 V.S.A. § 2449g.

(c) A covered business shall not use a process or technique where known error rates or limitations create a material risk that the process will not reliably perform the age-related determination for ~~certain covered minors or groups of covered minors~~which it is used. In applying this subsection, privacy and accessibility shall be prioritized over accuracy consistent with 9 V.S.A. § 2449g; marginal improvements in accuracy alone do not require a more privacy-invasive method.

~~(e) A~~(d) Where available information indicates a material risk of incorrect classification, including adults incorrectly classified as minors, a covered business shall ~~use commercially reasonable measures~~provide a reasonably accessible means to ~~evaluate, monitor, and improve the~~ correct or contest a determination that materially affects access. In assessing accuracy ~~and reliability of age assurance processes or techniques used.~~

~~(f) A,~~ a covered business shall ~~reassess accuracy and error rates:~~

~~[1.] At least annually, and more frequently where material changes, routinely collected performance metrics, operational experience, or other evidence indicate increased error rates or reduced reliability;~~
~~[2.] Upon material changes to~~consider the ~~age assurance process or technique; or~~
~~[3.] Where evidence suggests increased error rates or decreased reliability.~~

~~(g) Illustrative examples~~effects of ~~accuracy risks include, but are not limited to:~~

~~[1.] Age assurance processes or techniques that~~both false positives and false negatives, including burdens on adults incorrectly ~~classify covered minors~~classified as ~~adults;~~

~~**Age assurance processes or techniques that disproportionately misclassify certain covered**~~ **minors** ~~or groups of covered minors;~~.

~~[2.] Reliance on outdated, unvalidated, or poorly calibrated estimation techniques;~~
~~[3.] Systems that produce inconsistent results across similar covered minors, devices, or contexts.~~

CP ___ Frequency and Reassessment

(a) ~~—~~A covered business shall not conduct age assurance ~~relating to a covered minor~~ **more frequently than reasonably necessary to** ~~achieve the reasonably necessary level of accuracy or confidence for~~satisfy **the applicable** ~~online service, product, or feature~~statutory obligation**.**

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

~~1. Repeatedly~~ require repeated age assurance ~~within a single session or within a short period of time absent a documented need for~~ or reverification~~;~~
~~2. Conduct continuous or persistent monitoring, tracking, or profiling for age assurance purposes;~~
~~3. Use ongoing behavioral observation or engagement monitoring as a substitute for proportionate age assurance; or~~

~~4. Require reverification in a manner~~ **that** ~~creates~~results in **unnecessary** collection of personal data or imposes an unreasonable **burden**~~, friction, or repeated collection of personal data from a covered minor~~ on users.

(c) Reverification ~~shall occur only where:~~

~~1. There is~~ may be undertaken where reasonably necessary because of a material change in circumstances ~~relating to the covered minor, account, device, online service, product, or feature;~~

~~2. Accuracy~~, reliability concerns, fraud prevention, ~~or~~ security ~~concerns reasonably justify reassessment;~~

~~3. The covered business has reason to believe a prior age-related determination is no longer reliable; or~~

~~4. Reverification is reasonably necessary to comply~~, or compliance **with** ~~legal obligations~~applicable law.

(d) ~~In determining whether the frequency~~Continuous monitoring, persistent tracking, or repeated collection of personal data for age assurance ~~or reverification for a covered minor is reasonably~~shall not be used unless necessary~~, the Attorney General may consider:~~

~~1. The reasonably foreseeable risk of~~ for reliability, fraud prevention, security, a material ~~privacy, safety~~change in circumstances, or ~~accessibility harms~~compliance with applicable law. Any such practice remains subject to ~~covered minors posed by the online service, product, or feature;~~

~~2. The sensitivity or risk profile of the online service, product, or feature;~~

~~3. The privacy~~the statutory collection, use, **and** ~~accessibility impacts of repeated age assurance;~~immediate-deletion restrictions.

~~4. Whether less intrusive alternatives are reasonably available; and~~

~~5. Whether the age assurance process or technique results in repeated collection,~~(e) Nothing in this section authorizes retention~~, or monitoring of personal data.~~

~~(e) Age assurance practices that involve persistent monitoring, repeated collection~~ **of personal data**~~, or continuous reassessment of~~ that 9 V.S.A. § 2449g(**a** ~~covered minor's age-related status shall be presumed disproportionate unless the covered business demonstrates, through clear and convincing evidence, that such practices are strictly necessary~~)(2) requires **to** ~~address a reasonably foreseeable risk of material privacy, safety, or accessibility harms to covered minors~~be deleted.

CP ___ Data Minimization in Age Assurance

(a) A covered business shall limit ~~the~~ collection~~,~~ and processing~~, retention, and use~~ of personal data for age assurance to ~~what is strictly~~the minimum reasonably necessary ~~to determine whether a user is a covered minor.~~

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

~~1. Collect additional personal data where~~for **the age-related determination** required by the applicable statutory obligation.

(b) A covered business shall not collect personal data for age assurance where the determination can reasonably be made ~~using less~~without collecting that data~~;~~
~~[2.] Collect or process personal data unrelated to the age-related determination;~~
~~[3.] Retain raw personal data used for age assurance beyond the point of determination;~~

~~**Combine age assurance data with other personal data except**~~, including **where** ~~strictly necessary to provide~~compliance is achieved by treating **the** ~~age assurance process or technique; or~~user as a covered minor.

~~[4.] Use age assurance data for any secondary purpose.~~

(c) ~~Where reasonably available, proportionate, and sufficient, a covered business shall use:~~

~~1. Age signals;~~
~~2. Tokenized outputs;~~
~~3. Non-identifying or minimally identifying data; or~~
~~4. Local or device-level processing that does not require transmission of raw personal data.~~

~~(d)~~ A covered business shall delete ~~raw~~ personal data ~~used~~collected for age assurance immediately after the age-related determination is made, except ~~where retention is strictly necessary for:~~

~~**1.** Security~~for the age range, consistent with 9 V.S.A. § 2449g(a)(2). This Rule creates no additional retention exception for auditing, **fraud prevention,** ~~or system integrity;~~security, or compliance purposes.

~~2. Compliance with legal obligations; or~~
~~3. Documented auditing or error evaluation required under this Rule.~~

~~(e~~(d) **A covered business shall not** ~~retain or~~ **use** personal data collected for **age assurance** ~~data in~~for **a** ~~manner that enables tracking, profiling, behavioral advertising, or cross-service identification of a covered minor~~purpose prohibited by 9 V.S.A. § 2449g.

CP __ Linkability and ~~System~~ Design

(a) A covered business shall design and implement age assurance ~~systems~~processes or techniques **to minimize** ~~the risk of~~ **linkability** ~~to a covered minor~~ **across services, devices, accounts,** ~~or~~and **contexts.**

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

~~1. Combine age assurance data with other~~ use personal data ~~except where strictly necessary to provide or maintain the~~collected for age assurance ~~process or technique;~~
~~2. Use persistent identifiers or other techniques that~~ to enable cross-service~~, cross-context, or cross-device tracking of a covered minor;~~
~~3. Enable reuse of age assurance data across services, accounts, or contexts beyond what is strictly necessary for the age-related determination; or~~

~~4. Use age assurance data for~~ identification, **profiling, behavioral advertising,** ~~recommendation systems, or engagement optimization~~or other prohibited secondary uses**.**

(c) Age ~~assurance~~-related **outputs shall** ~~be limited to the minimum~~disclose no more **information** ~~reasonably necessary for~~than necessary for the applicable age-related determination, consistent with the statutory permission to retain an age range.

(d) This section does not authorize retention of underlying age assurance personal data after the age-related determination~~, including age status, age range, or age eligibility signals~~**.**

CP __ Prohibited Uses, Retention, and Disclosure of Age Assurance Data

(a) ~~Use Limitation.~~ A covered business shall use personal data collected for age assurance only for the age-related determination for which it was collected and as otherwise expressly permitted by 9 V.S.A. § 2449g.

(b) A covered business shall not use ~~age assurance data for any purpose other than determining whether a user is a covered minor or complying with obligations under this Rule.~~

~~(b) Prohibited Uses. A covered business shall not:~~

~~1. Use age assurance~~ such **data for** ~~personalization, recommendation systems,~~ **advertising, profiling,** ~~or~~personalized recommendations, **engagement optimization**~~;~~, or inference of unrelated characteristics where such use is prohibited by 9 V.S.A. § 2449g.

~~2. Use age assurance data to build, enhance, or supplement profiles relating to covered minors;~~

~~3. Use age assurance data to infer additional characteristics, behaviors, or preferences of a~~ (c) A covered business that uses a third party for age assurance remains responsible for compliance with applicable requirements of this Rule and 9 V.S.A. § 2449g.

(d) A covered ~~minor;~~

~~4. Combine age assurance data with other~~business shall take reasonable steps to ensure that a third party processing personal data ~~except where strictly necessary to provide or maintain the~~for age assurance ~~process or technique; or~~

~~5. Use age assurance~~does not retain, reuse, disclose, or combine that **data in a manner** ~~that enables tracking, cross-context behavioral profiling, or linkability~~prohibited by 9 V.S.A. § 2449g**.**

~~(c) Retention and Deletion. Retention and~~ (e) The deletion ~~of age assurance data shall comply with~~requirement in CP ___ Data Minimization in Age Assurance ~~and CP ___ Linkability and System Design.~~

~~(d) Third-Party Restrictions. A covered business shall ensure that any third party performing age assurance:~~

~~1. Processes age assurance data solely on behalf of~~ applies regardless of whether the covered business~~;~~

~~2. Does not retain, reuse, disclose, or sell age assurance data except as strictly necessary to provide the age assurance process or technique;~~

~~3. Does not combine age assurance data with other personal data; and~~

~~4. Does not use age assurance data for profiling, advertising, recommendation systems, analytics, or model training.~~

~~(e) Responsibility for Third Parties. A covered business remains responsible for compliance with this Rule where age assurance is performed in whole or in part by a third party.~~

~~(f) Vendor Accountability. A covered business shall not rely on~~ or **a third party** ~~to satisfy the requirements of this Rule unless the covered business:~~performs the determination.

1. Has assessed the third party's age assurance processes or techniques for compliance with this Rule;
2. Has contractually required the third party to comply with this Rule; and
3. Has implemented reasonable measures to monitor such compliance.

(g) Prohibited Delegation. A covered business shall not delegate age assurance functions in a manner that:

1. Circumvents the requirements of this Rule; or
2. Limits the ability of the covered business to ensure compliance.

(h) Illustrative examples of prohibited practices include, but are not limited to:

1. Retaining identity documentation or biometric data after the age-related determination is made;
2. Using age assurance data for personalization, recommendation systems, or advertising;
3. Combining age assurance data with browsing history, engagement data, or device identifiers;
4. Using age assurance data to infer additional characteristics, preferences, or behaviors of covered minors; or
5. Enabling persistent identifiers that facilitate cross-service or cross-context tracking.

CP ___ Fallback and Accessibility

(a) A covered business shall provide a fallback mechanism for any age assurance process or technique used.

(b) A covered minor shall not be denied access to an online service, product, or feature solely because:

1. AnWhere an age assurance process or technique fails, is unavailable, or produces an inconclusive result; or
2. A covered minor declines or is unable to use a highly intrusive age assurance process or technique where less intrusive alternatives are reasonably available.

(c) A fallback mechanism shall:

1. **Provide a meaningful opportunity to complete age assurance through an** , or is not accessible to a user, a covered business shall provide an accessible **alternative** process or technique;where one is available.

2. Minimize(b) A fallback mechanism shall minimize additional collection, retention, or processing of personal data;

3. Avoid collection and avoid **requiring a** highly intrusive age assurancemore privacy-invasive **process or technique where** less intrusive alternatives area more privacy-protective **reasonably available** and alternative is **sufficient**;.

4. Be reasonably accessible and usable by covered minors;

~~5. Not impose unreasonable delay, burden, friction, or repeated requests for personal data; and~~
~~6. Be designed to accommodate accessibility needs and technological limitations reasonably foreseeable for covered minors.~~

~~(d) A~~ (c) Nothing in this section requires a **covered business** ~~shall not design fallback mechanisms in a manner that materially discourages, delays, or interferes with use~~to provide access in violation **of** ~~lower-intrusion age assurance alternatives for~~another applicable law or prevents compliance by treating a user as **a covered minor.**

CP __ Appeals Process

(a) ~~—~~A covered business shall provide ~~a clear,~~an **accessible**~~, and meaningful appeals process for any~~ means to contest or correct an **age-related determination** that materially affects a user's access to an online service, product, or feature**.**

(b) An ~~appeals process shall:~~

~~1. Be available at the point~~appeal may be resolved through correction of ~~determination~~information, automated reconsideration, or ~~denial of access;~~

~~2. Provide~~an alternative age assurance process or technique where that method provides **a meaningful opportunity** ~~for a covered minor~~ **to** ~~challenge,~~ **correct**~~, or supplement an age-related~~ the **determination**~~;~~.

~~3. Be reasonably accessible and usable by covered minors; and~~

~~4. Not impose~~(c) Meaningful human review shall be available where automated reconsideration or an alternative process cannot reasonably resolve the dispute.

(d) An appeals process shall avoid unnecessary ~~steps,~~ delays, ~~friction, or~~ barriers~~.~~

~~(c) A covered business shall ensure that appeals are subject to meaningful human review independent from the initial determination. Automated reprocessing alone is insufficient to satisfy this requirement.~~
~~(d) A reviewer shall consider information reasonably provided by the covered minor in support~~, and collection of ~~the appeal.~~

~~(e) During the appeals process, a covered business shall:~~

~~1. Minimize~~ additional ~~collection, retention, and processing of~~ personal data~~;~~
~~2. Not~~ and shall not require a ~~covered minor to provide unnecessary additional data;~~
~~3. Prioritize correction of inaccurate determinations over reassessment through additional or alternative age assurance processes or techniques; and~~

4. ~~Not require use of a highly intrusive age assurance process or technique as a condition of appeal where less intrusive alternatives are~~ more privacy-invasive method where a **reasonably available** ~~and~~ , more privacy-protective alternative is **sufficient.**

~~(f) A covered business shall resolve appeals promptly and within a reasonable period of time.~~

~~(g) Covered minors shall receive clear, understandable explanations of appeal outcomes, including any resulting correction, modification, or denial.~~

~~(h) A covered business shall provide an alternative age assurance process or technique for a covered minor during the appeals process where reasonably available.~~

~~(i) A covered business shall not penalize, disadvantage, delay, restrict, or otherwise interfere with a covered minor for submitting or pursuing an appeal.~~

~~(j)~~ (e) **Personal data collected during an appeal** ~~shall be~~is **subject to the** ~~retention,~~collection, use, and **deletion**~~, minimization, and use limitations set forth in CP ___ Data Minimization in Age Assurance and CP ___ Prohibited Uses, Retention, and Disclosure of Age Assurance Data~~ requirements of 9 V.S.A. § 2449g**.**

~~(k) A covered business shall not design or implement age assurance processes or techniques in a manner that foreseeably results in materially disproportionate barriers, burdens, or error rates for certain covered minors or groups of covered minors.~~

~~(l) Illustrative examples of appeal mechanisms include, but are not limited to:~~

~~1. Allowing a covered minor to complete an alternative age assurance process or technique;~~
~~2. Correcting inaccurate information provided by or associated with the covered minor;~~
~~3. Manual review of an age-related determination by a human reviewer; or~~
~~4. Providing temporary or limited access pending resolution of an appeal.~~

CP ___ Compliance and Oversight

~~(a) Assessment Requirement. A covered business shall conduct and document an assessment of any age assurance process or technique used.~~

~~(b) Scope of Assessment. The assessment shall include:~~

~~1. Selection, escalation, and implementation decisions relating to age assurance processes or techniques;~~
~~2. Proportionality analysis;~~
~~3. Accuracy and error evaluation, including false positives, false negatives, and known limitations;~~
~~4. Privacy, retention, minimization, and accessibility risks;~~

~~5. Risks relating to linkability, profiling, or cross-context identification;~~
~~6. System design and security risks;~~
~~7. Vendor, third-party, and delegation risks; and~~
~~8. Risks of materially disproportionate error rates, burdens, or accessibility barriers affecting certain covered minors or groups of covered minors.~~

~~(c) Timing of Assessment. A covered business shall conduct the assessment required under this section:~~

~~1. Prior to deploying an age assurance process or technique;~~
~~2. Prior to any material expansion of collection, retention, or use of age assurance data; and~~
~~3. Upon any material modification to the age assurance process or technique.~~

~~(d) Documentation Requirements.~~(a) **A covered business shall maintain documentation reasonably sufficient to demonstrate compliance with this Rule,** ~~including:~~proportionate to the age assurance process or technique used and the associated privacy and accessibility risks.

~~1. Evaluation of less intrusive alternatives;~~
~~2. Justification for proportionality, selection, and escalation decisions;~~
~~3. Accuracy and error evaluation;~~
~~4. Compliance with SubRule __ (Privacy Protections);~~
~~5. Compliance with SubRule __ (Appeals Process); and~~
~~6. Vendor and third-party oversight measures.~~

~~(e) Ongoing Review. A covered business shall periodically review and update age assurance processes, techniques, and assessments to address changes in technology, risks, error rates, accessibility impacts, or reasonably foreseeable harms to covered minors.~~

~~(f) Burden of Proof. The covered business shall be responsible for complying with this Rule.~~

~~(g) Presumption of Non-Compliance.~~ (b) Documentation may address the basis for selecting the process or technique, reasonably available less privacy-invasive alternatives, known accuracy limitations, accessibility considerations, and arrangements with third parties, to the extent relevant.

(c) This section does not require retention of personal data collected for age assurance beyond the point permitted by 9 V.S.A. § 2449g(a)(2). Documentation should describe compliance without retaining prohibited underlying personal data.

(d) Failure to maintain ~~documentation required under this section creates a rebuttable~~ a particular document does not create a **presumption** ~~of non-compliance~~that the covered business violated a substantive provision of this Rule.

~~(h) Presumption — Highly Intrusive Age Assurance. Use of a highly intrusive age assurance process or technique without documented justification creates a rebuttable presumption of violation.~~

(e) A covered business remains responsible for compliance with this Rule when age assurance is performed by a third party.

CP ___ Illustrative Examples

Examples ~~provided~~ **in this Rule are illustrative and** ~~non-exhaustive. The inclusion of~~do not independently expand **an** ~~example shall not be construed to limit the scope or application of~~ operative prohibition.

CP ___ Severability

If any provision of this Rule, or its application 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**.**

SUBJECT: CONSUMER PROTECTION –
AGE ASSURANCE PRIVACY

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

CP ___ Applicability
CP ___ Definitions
CP ___ Age Assurance Selection
CP ___ Graduated Escalation
CP ___ Accuracy and Error Evaluation
CP ___ Frequency and Reassessment
CP ___ Data Minimization in Age Assurance
CP ___ Linkability and Design
CP ___ Prohibited Uses, Retention, and Disclosure of Age Assurance Data
CP ___ Fallback and Accessibility
CP ___ Appeals Process
CP ___ Compliance and Oversight
CP ___ Illustrative Examples
CP ___ Severability

CP ___ Applicability

(a) This Rule governs the collection, use, processing, and deletion of personal data in age assurance processes or techniques used by covered businesses. This Rule does not mandate a particular technology or identity-based age verification method.

(b) This Rule applies where a covered business knows that a user is a covered minor as defined in 9 V.S.A. § 2449a. Nothing in this Rule alters 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.

(c) A covered business shall implement proportionate age assurance measures where age assurance is reasonably necessary to comply with any applicable obligations under 9 V.S.A. §§ 2449c–2449g. Nothing in this Rule requires a covered business to collect personal data where it can comply with those obligations by treating a user as a covered minor.

(d) Where age assurance is reasonably necessary, a covered business shall use a proportionate age assurance process or technique.

(e) Age assurance shall be conducted using a privacy-protective process or technique reasonably available that achieves the level of confidence appropriate to the

applicable obligation, giving priority to user privacy and accessibility over accuracy, consistent with 9 V.S.A. § 2449g.

CP Definitions

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

(b) "Age assurance" means a process or technique used to determine, estimate, or communicate the age or age range of a user, including whether the user is a covered minor. Methods may include self-declaration, estimation, credentials, privacy-preserving age signals, and combinations of methods; no method is inherently required or preferred.

(c) "Age assurance data" means personal data collected for the purpose of making an age-related determination, including personal data supplied to or obtained by an age assurance provider for that purpose. This term does not expand the statutory prohibition on uses of personal data collected for age assurance to an age-range determination generated by the process, but the determination remains subject to applicable law and the deletion exception in 9 V.S.A. § 2449g(a)(2).

(d) "Age signal" means an output indicating or communicating an age range or age-related status.

(e) "Error rate" means the frequency of incorrect age-related determinations, including adults classified as minors and minors classified as adults.

(f) "Fallback mechanism" means an alternative process or technique available where the primary age assurance process fails, produces an inconclusive result, or cannot reasonably be used.

(g) "Linkability" means the ability to associate a user across services, sessions, accounts, devices, or contexts, directly or indirectly.

(h) "Privacy-invasive age assurance" means a process or technique that, based on its design and operation, creates a material privacy risk considering the amount and sensitivity of personal data collected, transmission, retention, linkability, disclosure, secondary use, or persistent identification.

(i) "Proportionate age assurance" means an age assurance process or technique selected in light of the applicable statutory obligation, the reasonably necessary level of confidence, and the priority afforded to privacy and accessibility under 9 V.S.A. § 2449g.

CP Age Assurance Selection

(a) Where age assurance is necessary to comply with an applicable statutory obligation, a covered business shall select a commercially reasonable and technically feasible process or technique in light of:

1. The applicable statutory obligation and the age-related determination needed for compliance;
2. The amount and sensitivity of personal data collected or processed;
3. Whether data is processed locally or transmitted, and the risks of retention, disclosure, linkability, or secondary use;
4. Accessibility and the burdens imposed on users, including users who cannot use a particular method;
5. More privacy-protective reasonably available alternatives; and
6. The level of confidence reasonably necessary for the age-related determination, giving priority to privacy and accessibility over marginal gains in accuracy.

(b) Depending on the circumstances, commercially reasonable and technically feasible processes or techniques may include self-declaration, existing age signals, privacy-preserving age credentials or tokens, estimation, or a combination of methods. This subsection identifies possible methods, not a preferred hierarchy or a requirement to collect additional personal data.

CP Graduated Escalation

(a) A covered business shall consider more privacy-protective reasonably available age assurance methods before selecting a method that creates greater privacy risks.

(b) In evaluating privacy impacts, the covered business shall consider the amount and sensitivity of personal data collected, whether raw personal data is transmitted, retention, linkability, disclosure, secondary use, persistent identification, accessibility, and user burden.

(c) No age assurance process or technique, including self-declaration, estimation, credential-based methods, biometric methods, device-based methods, or privacy-preserving credentials, is inherently required or preferred under this Rule.

(d) A covered business may use multiple processes or techniques where reasonably necessary, provided that each complies with applicable privacy, accessibility, minimization, and proportionality requirements.

(e) Before using a process or technique that materially increases privacy risks, a covered business shall consider whether a more privacy-protective reasonably available alternative can achieve the reasonably necessary level of confidence.

(f) A covered business shall maintain documentation reasonably sufficient to explain the basis for selecting a process or technique where the selection materially increases privacy risks.

CP___ Accuracy and Error Evaluation

(a) A covered business shall consider the known accuracy, error rates, and limitations of an age assurance process or technique used, including false positives (adults classified as minors) and false negatives (minors classified as adults).

(b) The evaluation shall take account of reasonably available information about material limitations, disproportionate errors, and accessibility barriers, without requiring collection or retention of personal data prohibited by 9 V.S.A. § 2449g.

(c) A covered business shall not use a process or technique where known error rates or limitations create a material risk that the process will not reliably perform the age-related determination for which it is used. In applying this subsection, privacy and accessibility shall be prioritized over accuracy consistent with 9 V.S.A. § 2449g; marginal improvements in accuracy alone do not require a more privacy-invasive method.

(d) Where available information indicates a material risk of incorrect classification, including adults incorrectly classified as minors, a covered business shall provide a reasonably accessible means to correct or contest a determination that materially affects access. In assessing accuracy, a covered business shall consider the effects of both false positives and false negatives, including burdens on adults incorrectly classified as minors.

CP___ Frequency and Reassessment

(a) A covered business shall not conduct age assurance more frequently than reasonably necessary to satisfy the applicable statutory obligation.

(b) A covered business shall not require repeated age assurance or reverification that results in unnecessary collection of personal data or imposes an unreasonable burden on users.

(c) Reverification may be undertaken where reasonably necessary because of a material change in circumstances, reliability concerns, fraud prevention, security, or compliance with applicable law.

(d) Continuous monitoring, persistent tracking, or repeated collection of personal data for age assurance shall not be used unless necessary for reliability, fraud prevention, security, a material change in circumstances, or compliance with applicable law. Any such practice remains subject to the statutory collection, use, and immediate-deletion restrictions.

(e) Nothing in this section authorizes retention of personal data that 9 V.S.A. § 2449g(a)(2) requires to be deleted.

CP ___ Data Minimization in Age Assurance

(a) A covered business shall limit collection and processing of personal data for age assurance to the minimum reasonably necessary for the age-related determination required by the applicable statutory obligation.

(b) A covered business shall not collect personal data for age assurance where the determination can reasonably be made without collecting that data, including where compliance is achieved by treating the user as a covered minor.

(c) A covered business shall delete personal data collected for age assurance immediately after the age-related determination is made, except for the age range, consistent with 9 V.S.A. § 2449g(a)(2). This Rule creates no additional retention exception for auditing, fraud prevention, security, or compliance purposes.

(d) A covered business shall not use personal data collected for age assurance for a purpose prohibited by 9 V.S.A. § 2449g.

CP ___ Linkability and Design

(a) A covered business shall design and implement age assurance processes or techniques to minimize linkability across services, devices, accounts, and contexts.

(b) A covered business shall not use personal data collected for age assurance to enable cross-service identification, profiling, behavioral advertising, or other prohibited secondary uses.

(c) Age-related outputs shall disclose no more information than necessary for the applicable age-related determination, consistent with the statutory permission to retain an age range.

(d) This section does not authorize retention of underlying age assurance personal data after the age-related determination.

CP ___ Prohibited Uses, Retention, and Disclosure of Age Assurance Data

(a) A covered business shall use personal data collected for age assurance only for the age-related determination for which it was collected and as otherwise expressly permitted by 9 V.S.A. § 2449g.

(b) A covered business shall not use such data for advertising, profiling, personalized recommendations, engagement optimization, or inference of unrelated characteristics where such use is prohibited by 9 V.S.A. § 2449g.

(c) A covered business that uses a third party for age assurance remains responsible for compliance with applicable requirements of this Rule and 9 V.S.A. § 2449g.

(d) A covered business shall take reasonable steps to ensure that a third party processing personal data for age assurance does not retain, reuse, disclose, or combine that data in a manner prohibited by 9 V.S.A. § 2449g.

(e) The deletion requirement in CP ___ Data Minimization in Age Assurance applies regardless of whether the covered business or a third party performs the determination.

CP ___ Fallback and Accessibility

(a) Where an age assurance process or technique fails, produces an inconclusive result, or is not accessible to a user, a covered business shall provide an accessible alternative where one is available.

(b) A fallback mechanism shall minimize additional personal data collection and avoid requiring a more privacy-invasive process or technique where a more privacy-protective reasonably available alternative is sufficient.

(c) Nothing in this section requires a covered business to provide access in violation of another applicable law or prevents compliance by treating a user as a covered minor.

CP ___ Appeals Process

(a) A covered business shall provide an accessible means to contest or correct an age-related determination that materially affects a user's access to an online service, product, or feature.

(b) An appeal may be resolved through correction of information, automated reconsideration, or an alternative age assurance process or technique where that method provides a meaningful opportunity to correct the determination.

(c) Meaningful human review shall be available where automated reconsideration or an alternative process cannot reasonably resolve the dispute.

(d) An appeals process shall avoid unnecessary delays, barriers, and collection of additional personal data and shall not require a more privacy-invasive method where a reasonably available, more privacy-protective alternative is sufficient.

(e) Personal data collected during an appeal is subject to the collection, use, and deletion requirements of 9 V.S.A. § 2449g.

CP ___ Compliance and Oversight

(a) A covered business shall maintain documentation reasonably sufficient to demonstrate compliance with this Rule, proportionate to the age assurance process or technique used and the associated privacy and accessibility risks.

(b) Documentation may address the basis for selecting the process or technique, reasonably available less privacy-invasive alternatives, known accuracy limitations, accessibility considerations, and arrangements with third parties, to the extent relevant.

(c) This section does not require retention of personal data collected for age assurance beyond the point permitted by 9 V.S.A. § 2449g(a)(2). Documentation should describe compliance without retaining prohibited underlying personal data.

(d) Failure to maintain a particular document does not create a presumption that the covered business violated a substantive provision of this Rule.

(e) A covered business remains responsible for compliance with this Rule when age assurance is performed by a third party.

CP ___ Illustrative Examples

Examples in this Rule are illustrative and do not independently expand an operative prohibition.

CP ___ Severability

If any provision of this Rule, or its application 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.

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. § 2449g)

- **§ 2449g. Age assurance privacy [Effective January 1, 2027]**

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

(a) Privacy protections for age assurance data. During the process of conducting age assurance, covered businesses and processors shall:
(1) only collect personal data of a user that is strictly necessary for age assurance;
(2) immediately upon determining whether a user is a covered minor, delete any personal data collected of that user for age assurance, except the determination of the user's age range;
(3) not use any personal data of a user collected for age assurance for any other purpose;
(4) not combine personal data of a user collected for age assurance, except the determination of the user's age range, with any other personal data of the user;
(5) not disclose personal data of a user collected for age assurance to a third party that is not a processor; and
(6) implement a review process to allow users to appeal their age determination.
(b) Rulemaking.
(1) Subject to subdivision (2) of this subsection, the Attorney General shall, on or before January 1, 2027, adopt rules identifying commercially reasonable and technically feasible methods for covered businesses and processors to determine if a user is a covered minor, describing appropriate review processes for users appealing their age designations, and providing any additional privacy protections for age assurance data. The Attorney General shall periodically review and update these rules as necessary to keep pace with emerging technology.
(2) In adopting these rules, the Attorney General shall:
(A) prioritize user privacy and accessibility over the accuracy of age assurance methods; and

(B) consider:

(i) the size, financial resources, and technical capabilities of covered businesses and processors;

(ii) the costs and effectiveness of available age assurance methods;

(iii) the impact of age assurance methods on users' safety, utility, and experience;

(iv) whether and to what extent transparency measures would increase consumer trust in an age assurance method; and

(v) the efficacy of requiring covered businesses and processors to:

(I) use previously collected data to determine user age;

(II) adopt interoperable age assurance methods; and

(III) provide users with multiple options for age assurance. (Added 2025, No. 63, § 1, eff. Jan. 1, 2027.)

OFFICE OF THE SECRETARY OF STATE

VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION (VSARA)

(802) 828-2863

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	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

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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).

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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.

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(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:

From: APA Coordinator, VSARA

RE: Age Assurance Privacy.

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: 26P028
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