

**RULE ON RULEMAKING  
OFFICE OF THE SECRETARY OF STATE**

*2010*

Section 1. Introduction.

This rule is required by 3 V.S.A. § 847(e) for the effective administration of Chapter 25 of Title 3. It applies to every agency of state government adopting rules under the Vermont Administrative Procedures Act (APA). For a fuller understanding of the rulemaking process, consult 3 V.S.A. § 801 - 849 and the rules of procedure of the Legislative Committee on Administrative Rules (LCAR).

Section 2. Filings.

The APA requires agencies to make filings of every new, amended, or repealed rule at least four times during the rule making process. The first filing is the Prefiling with the Interagency Committee on Administrative Rules (ICAR). This begins the rulemaking process. The second filing is the Proposed Rule with the Office of the Secretary of State. This begins the notice and public comment period. The third filing is the Final Proposed Rule, which is filed with the Office of the Secretary of State and LCAR. This signals the end of the notice and public comment period. After LCAR review, the fourth and last filing is the Adopted Rule (filed with both the Office of the Secretary of State and LCAR), which marks the beginning of the minimum 15 day period required by statute [3 V.S.A. § 845(d)] for the effective date of the rule.

For the purpose of the Rule on Rulemaking, the filing of any new rule, amendment, or repeal of an existing rule shall be described as a rule. Agencies must use the forms provided by the Office of the Secretary of State for that purpose; altered forms will not be accepted. All forms requiring the signature of the adopting authority to be filed with the Office of the Secretary of State shall be an original signature. The forms are available for download from the Office of the Secretary of State's website. Due to compatibility issues use the forms in the formats in which they are provided. The forms include:

1. Proposed Rule Cover Sheet provides information about the proposed rule for the required notice.
2. Final Proposal Cover Sheet delineates any changes from the proposed rule.
3. Adopted Rule Cover Sheet, lists the procedural history of the rule and indicates that the rule has been reviewed by LCAR, has been adopted by the agency, and assigned an effective date.
4. Economic Impact Statement explains the expected economic impact of the rule and the impact the rule will have on greenhouse gases if it is adopted.
5. Scientific Information Statement identifies the scientific information upon which the rule has been based and explains the procedure for obtaining such studies and underlying research data from the agency.
6. Public Input Statement outlines the agency's plan to maximize public input.
7. Incorporation by Reference Statement, explains the material to be incorporated, and where it can be obtained and at what cost.
8. Emergency Rule: Cover Sheet replaces the Proposed Rule Coversheet for Emergency Rules.
9. Adopting Page provides information about the type of filing submitted and whether it is a new rule, an amendment or a repeal of an existing rule and if so, what those existing rules are.

Any change(s) to the Rule on Rulemaking forms shall not occur without 30 days notice of such change(s) to ICAR and LCAR [3 VSA sec 834(b) and sec 847(e)].

If the Office of the Secretary of State finds that the filings meet the statutory requirements found in chapter 25 of title 3 of the Vermont Statutes, the rule is stamped with the date and filed. The Office of the Secretary of State will notify an agency of any defects in a filing within 3 working days from receipt.

In addition to the appropriate forms, an agency must file the text of the proposed or adopted rule and an annotated text showing changes from any existing rules. Filing a paragraph or page of a larger rule is not sufficient and a complete annotation is required. A new proposed rule need not be accompanied by an annotated text.

To the extent that a rule depends on scientific information for its validity, it shall include a brief summary of that information including reference to any scientific studies upon which the proposed rule is based, and shall explain the procedure for obtaining such studies and underlying research data from the agency.

Whenever an agency intends to adopt a rule through incorporation by reference, a copy of all incorporated materials must be filed with an Incorporation by Reference Statement form.

All filings with the Office of the Secretary of State shall arrive no later than 3:30 p.m. on the last day of the scheduled workweek.

### Section 3. Public Notice.

Notices of completed filings of proposed rules received by 3:30 p.m. on the last day of the scheduled workweek will be posted online the following week. Links to the notices will be available on the Secretary of State's APA web pages and the notices will appear in the newspapers of record the week following the posting of the online notice. Notices of proposed rules will remain posted online until two weeks after adoption of the proposed rule is complete.

When an agency learns of the need for a new hearing date or for an extension of the public comment period, the agency must notify the office of the Office of the Secretary of State and must notify by mail all individuals who have contacted the agency about the rule. The Office of the Secretary of State shall amend the notices to reflect the changes in hearing and deadline for public comment.

When a public hearing has not been scheduled, an agency shall set a deadline for public comment not less than two full weeks following the publication in the newspapers of record. If an agency then receives a petition for a public hearing, or decides to hold a hearing on its own initiative, the agency must notify the Office of the Secretary of State so the notices may be amended to reflect the new hearing information and the deadline for public comment shall be reestablished to a date not less than seven days following the last public hearing.