

Administrative Procedures – Proposed 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 proposed filing will be considered complete upon the submission and acceptance of the following components:

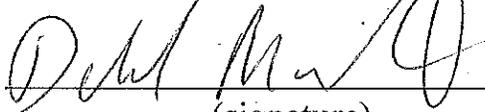
- Proposed Rule Coversheet
- Adopting Page
- Economic Impact Statement
- Public Input Statement
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to 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 the proposed coversheet form will be used to generate a notice of rulemaking in the newspapers of record. Publication of notices will be charged back to the promulgating agency based on the word count of the notices.

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:

Rule Title: Vermont Stream Alteration Rule

 _____, on 11-22-16
(signature) (date)

Printed Name and Title:

Deb Markowitz, Secretary
Agency of Natural Resources

RECEIVED BY: _____

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- ICAR Approval received by E-mail.

1. TITLE OF RULE FILING:

Vermont Stream Alteration Rule

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PRIMARY CONTACT PERSON:

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

Name: Mike Kline

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Main 2, Montpelier,
VT 05620-3522

Telephone: 802 490 - 6155 Fax: 802 828 - 1544

E-Mail: mike.kline@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://dec.vermont.gov/watershed/laws>

4. 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: Elizabeth Schilling

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Davis 2,
Montpelier, VT 05620

Telephone: 802 490 - 6102 Fax: 802 828 - 1544

E-Mail: elizabeth.schilling@vermont.gov

5. 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:

6. 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).

10 V.S.A § 1027

7. CONCISE SUMMARY (150 WORDS OR LESS):

An amendment to the existing Vermont Stream Alteration Rule is necessary for the Federal Emergency Management Agency (FEMA) to approve Vermont's standards for new and replacement bridges and culverts. Under FEMA's Public Assistance Program, FEMA approval of Vermont's "codes and standards" is needed to ensure greater federal cost sharing for replacement bridges and culverts destroyed during flood disasters. The needed amendment states the design requirements for replacement bridges and culverts seeking individual permit coverage. FEMA has conditionally approved Vermont's standards with the proposed revision, pending the adoption of this Rule and revisions to the Stream Alteration General Permit, consistent with the Rule. In addition to the above, these amendments include updates to public notice requirements consistent with future Act 150 (2016) requirements, updates to exemptions consistent with Act 64 (2015), updates to the activities considered "next-flood protective measures," and formatting updates.

8. EXPLANATION OF WHY THE RULE IS NECESSARY:

FEMA approval of Vermont's codes and standards for replacing bridges and culverts will enable municipalities to receive the full 75% of the cost of replacing structures that are damaged during flood disasters and required to meet the standards set by this Rule.

The amendments to allow the authorization of temporary facilities as next-flood protective measures will fill a need discovered during the implementation of the existing Rule. Under the current Rule, the Agency cannot in anticipation of a flood authorize a temporary stream crossing structure that would avoid the endangerment of the travelling public; instead, the Agency must wait until the inadequate structure is destroyed during a flood to authorize a temporary structure. The proposed amendment will remedy the foregoing situation.

Finally, the proposed amendments are also necessary to update the Rule consistent with statutory updates adopted since the original adoption of this Rule.

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

Municipalities, government entities, private individuals, businesses, and any other individuals or entities that may apply for a stream alteration permit.

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

FEMA approval of Vermont's codes and standards is likely to yield hundreds of thousands of dollars of benefit to Vermont communities over the course of the next decade (Source: Vermont Division of Emergency Management and Homeland Security). For instance, the bottomless arch culvert required to meet current Vermont Standards may cost \$100,000.00 more than the one-for-one round-culvert replacement that FEMA was previously willing to cost-share with Public Assistance (PA) funds after Tropical Storm Irene.

11. A HEARING IS NOT SCHEDULED .

12. 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 NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

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

14. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).
 - stream alteration
 - bridge and culvert standards
 - temporary facilities
 - FEMA
 - disaster funding