

## Administrative Procedures – Proposed Rule Filing

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) 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 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 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:

#### **Water Supply Rule**

 \_\_\_\_\_, on 09/13/17.  
(signature) (date)

Printed Name and Title:

Julie S. Moore, Secretary  
Agency of Natural Resource

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 Filing Confirmed

1. TITLE OF RULE FILING:

**Water Supply 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: Ellen Parr Doering

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Main 2, Montpelier,  
Vermont 05620-3521

Telephone: 802 236 - 1483 Fax: -

E-Mail: ellen.parrdoering@vermont.gov

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

<https://dec.vermont.gov/water/drinking-water/public-drinking-water-systems/guidance-practices-procedures>

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: Diane Sherman

Agency: Agency of Natural Resources

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

Telephone: 802 505 - 0125 Fax: -

E-Mail: diane.sherman@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. § 1672 and Sec. 3(a) of Act 21 of 2019

**7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

Section 1672 of Title 10 of the Vermont Statutes Annotated vests the Agency of Natural Resources with the authority to adopt rules establishing standards or requirements for drinking water quality and for the testing and monitoring of drinking water and public water systems. Additionally, in Act 21 of 2019 the legislature directed the Agency of Natural Resources to establish in rule a maximum contaminant level for five per- and polyfluorinated alkyl substances (PFAS): perfluorooctanoic acid (PFOA), perfluoro-octane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), and perfluorononanoic acid (PFNA). Act 21 also established interim testing requirements for these five PFAS in public water systems.

**8. CONCISE SUMMARY (150 WORDS OR LESS):**

This rule amendment proposes a cumulative maximum contaminant level (MCL) of 20 parts per trillion for five per- and polyfluorinated alkyl substances (PFAS) for drinking water, including bottled water, from public water systems. The five PFAS are: perfluorooctanoic acid (PFOA), perfluoro-octane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), and perfluorononanoic acid (PFNA). The rule amendment establishes requirements for how public water systems must sample for the five substances, how the samples are analyzed, and how compliance with the MCL is determined. The rule amendment establishes requirements for granular carbon filtration, one method of removing these substances from drinking water. It also clarifies the requirements for bottled water sold in Vermont and clarifies the requirements for monitoring for contaminants with secondary drinking water standards.

**9. EXPLANATION OF WHY THE RULE IS NECESSARY:**

The Vermont Department of Health has issued a cumulative Drinking Water Health Advisory of 20 parts per trillion for five PFAS. In Act 21 of 2019 the legislature directed the Agency of Natural Resources to establish in rule a maximum contaminant level for five

per- and polyfluorinated alkyl substances (PFAS): perfluorooctanoic acid (PFOA), perfluoro-octane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), and perfluorononanoic acid (PFNA). This rule is responsive to that directive.

**10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The maximum contaminant level established in this rule is based on the Vermont Department of Health Drinking Water Health Advisory. The associated sampling and treatment requirements to ensure compliance with the MCL that are established in this rule are consistent with the Agency of Natural Resources' regulation of other contaminants in drinking water as well as the federal Safe Drinking Water Act, which the Agency has primacy to implement in Vermont.

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

The individuals and entities most directly impacted will be owners and operators of public water systems in Vermont. A vast majority of Vermonters will ultimately be affected by the change to drinking water quality standards as they rely on drinking water from public water systems in public settings, may also rely on drinking water from a public water system in their home, and ultimately are paying customers of those who provide the resource. To the extent the rule amendment results in identification of potential releases of PFAS into the environment, the Agency, any potentially responsible parties, and the public may be impacted.

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

Owners and operators of public water systems, as well as customers of the public water systems, will experience increased costs from new testing requirements for the five PFAS. The extent of economic impact from treatment requirements will depend on whether, and to what extent across the state, the five PFAS are detected at levels above the MCL. If PFAS is detected at a public water system, the public water system may need to upgrade its operator to a higher class, spend capital on modifications to the system, and budget for ongoing operation and maintenance costs associated with the modifications.

Vermonters, as well as those visiting our State, will

experience a reduction of risk from exposure to PFAS in drinking water. To the extent the rule amendment results in identification of a potential release of PFAS into the environment, the Agency and any potentially responsible parties may bear the cost of cleanup. Vermonters would experience the benefits of reduced risk from exposure following cleanup.

13. A HEARING IS SCHEDULED .

14. 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: 11/6/2019

Time: 09:00 AM

Street Address: Agency of Natural Resource Annex Building,  
190 Junction Road, Berlin, VT

Zip Code: 05602

Date: 11/7/2019

Time: 07:00 PM

Street Address: Rutland Free Library, Fox Room, 10 Court  
Street, Rutland, VT

Zip Code: 05701

Date: 11/12/2019

Time: 07:00 PM

Street Address: Department of Environmental Conservation,  
Essex Regional Office, Act 250 Room, 111 West Street,  
Essex Junction, VT

Zip Code: 05452

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 11/25/2019

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

PFAS

PFOA

PFOS

PFHxS

PFHpA

PFNA

per- and polyfluorinated alkyl substances

public water system

water supply

drinking water

## Administrative Procedures – 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:

**Water Supply Rule**

2. ADOPTING AGENCY:

Agency of Natural Resources

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 as long as 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 **AN AMENDMENT OF AN EXISTING RULE** .

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

Secretary of State Rule Log #19-017, Water Supply Rule, April 12, 2019.

# Administrative Procedures – 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.

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:

**Water Supply Rule**

### 2. ADOPTING AGENCY:

Agency of Natural Resources

### 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 individuals and entities most directly impacted by this rule amendment will be owners and operators of public water systems in Vermont. A vast majority of Vermonters will ultimately be affected by the change to drinking water quality standards as they rely on drinking water from public water systems in public settings, may also rely on drinking water from a public water system in their home, including bottled water,



## Economic Impact Analysis

and ultimately are paying customers of those who provide the resource.

Owners and operators of public water systems, as well as customers of the public water systems, will experience increased costs from new testing requirements for the five PFAS. The extent of economic impact from treatment requirements will depend on whether, and to what extent across the state, the five PFAS are detected at levels above the MCL. If PFAS is detected at a public water system, the public water system may need to upgrade its operator to a higher class and spend capital on modifications to the system to address PFAS as well as budget for ongoing operation and maintenance costs associated with the modifications. Because this is an emerging issue and the information and technology is rapidly evolving, at this time there is minimal information on which to base concrete cost estimates for ongoing operating and maintenance needs for an individual system.

Vermonters, as well as those visiting our State, will experience a reduction of risk from exposure to PFAS in drinking water.

To the extent the rule amendment results in identification of a potential release of PFAS into the environment, the Agency and any potentially responsible parties may bear the cost of cleanup. Vermonters would experience the benefits of reduced risk from exposure following cleanup activities.

#### 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:*

To the extent that a school operates a public water system, it will be impacted similar to other entities that operate public water systems. A school operating a public water system will experience increased costs from new testing requirements for the five PFAS. If PFAS is detected at levels above the MCL, the school may need to upgrade its operator to a higher class, spend capital on modifications to the system, and budget for ongoing operation and maintenance costs

associated with the modifications. The population that uses the drinking water from the school will subsequently experience a reduction of risk from exposure to PFAS in drinking water.

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.*

The requirement in this rule amendment that schools operating public water systems test for PFAS is consistent with the interim testing requirements in Act 21. Should PFAS be detected at levels above the MCL at a school, the school can apply to the Agency to receive a loan from the Drinking Water State Revolving Fund, a fund providing municipal borrowers with loans at below market rates. The rule amendment also provides flexibility for how a public water system, including a school operating a public water system, achieves compliance with the MCL. The school's engineer can assist the school in identifying alternatives and recommending the most cost-effective solution taking into account the system's specific technical considerations.

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):*

To the extent that a small business operates a public water system and is not a transient non-community public water system, it will be impacted similar to other entities that operate public water systems. A small business operating such a public water system will experience increased costs from new testing requirements for the five PFAS. If PFAS is detected at levels above the MCL, the business may need to upgrade its operator to a higher class, spend capital on modifications to the system, and budget for ongoing operation and maintenance costs associated with the modifications. The population that uses the drinking water from the small business will subsequently experience a reduction of risk from exposure to PFAS in drinking water.

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 requirement that a small business operating a public water system that is not a transient non-community public water system test for PFAS is consistent with the interim testing requirements in Act 21. The rule amendment provides flexibility for how a public water system, including a small business operating a public water system, achieves compliance with the MCL. The business's engineer can assist the business in identifying alternatives and recommending the most cost-effective solution taking into account the system's specific technical considerations.

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 legislature, in Act 21 of 2019, directed the Agency of Natural Resources to adopt a maximum contaminant level for five PFAS (PFOA, PFOS, PFHxS, PFHpA, and PFNA). Thus, the alternative of no rule amendment is not available.

In Act 21 the legislature set an interim standard for the five PFAS equivalent to the Vermont Department of Health Drinking Water Health Advisory for the five PFAS. The MCL proposed in this rule amendment is consistent with the interim standard and also based on the Vermont Department of Health Drinking Water Health Advisory. The Agency defers to the Vermont Department of Health in its expertise in toxicology and risk assessment and the Agency has not identified an independent scientific basis supporting the adoption of a more strict or less strict MCL. While the adoption of a less strict MCL may lead to lower economic impact in the short-term, such a standard would be inconsistent with the interim standard set by the legislature and may not necessarily lead to a lower economic impact in the long-term.

The Agency also provides flexibility in the rule amendment for public water systems to determine cost-effective solutions for achieving compliance with the

## Economic Impact Analysis

PFAS MCL and incorporated reduced monitoring for the five PFAS when they are not initially detected at levels near the MCL.

### 9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

This economic analysis provides the Agency's best assessment of the economic impact of this rule amendment based on the information available.

# Administrative Procedures – 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.

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:

**Water Supply Rule**

### 2. ADOPTING AGENCY:

Agency of Natural Resources

### 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.):*

None 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.):*

This rule amendment will result in an increase in drinking water quality but does not regulate the drinking water source as a natural resource. Other Agency of Natural Resources' rules regulate surface water and groundwater. To the extent this rule amendment results in identification of a potential release of one or more of the five PFAS identified in this rule amendment, subsequent cleanup activities may result in a reduction of PFAS in surface water and groundwater.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

To the extent this rule amendment results in identification of a potential release of one or more of the five PFAS identified in this rule amendment, subsequent cleanup activities may result in a reduction of PFAS in soils.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None anticipated

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None anticipated

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None anticipated

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

This environmental impact analysis provides the Agency's best assessment of the environmental impact of this rule amendment based on the information available. Because PFAS is an emerging contaminant for which limited testing has been done to date, the testing required pursuant to this rule amendment may result in the identification of more releases of PFAS than have currently been identified, uncovering currently unknown environmental impacts from PFAS itself.

## Administrative Procedures – Public Input

### **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

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

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1. TITLE OF RULE FILING:

**Water Supply Rule**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

During drafting of this rule amendment, and prior to initiating rulemaking, the Agency of Natural Resources sought input from the Vermont Department of Health and a group of stakeholders which included Vermont Rural Water Association (which represents and assists small public water systems) and Green Mountain Water Environment (which represents drinking water, stormwater, and wastewater utilities and operators) as well as a subset of public water systems, consulting engineers knowledgeable in public water systems, environmental advocacy groups, and analytical labs in Vermont.

During three public hearings and the formal public comment period on this rule amendment, the Agency will engage with the Vermont Department of Health, the stakeholders mentioned above, and the Vermont League of Cities and Towns.

While drafting this rule amendment the Agency also conferred with the Environmental Protection Agency, agencies in other states, the Association of State Drinking Water Administrators, the Environmental

## Public Input

Council of States (ECOS), and out-of-state analytical laboratories, although these groups will not be part of the Agency's formal outreach efforts during this rulemaking.

### 4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Agency consulted with the set of stakeholders identified above prior to initiating rulemaking.

During rulemaking three public hearings will be held and the rule amendment will be distributed by e-mail to the individuals and entities identified below.

Owners/operators of each community and non-transient non-community public water system in Vermont will also receive a letter notifying them of the availability of the rule amendment. The rule amendment will be posted on the following website:

<https://dec.vermont.gov/water/drinking-water/public-drinking-water-systems/guidance-practices-procedures>.

Contact information for the Drinking Water and Groundwater Protection Division (Ellen Parr Doering at 802-236-1483) will be provided in the correspondence about the rulemaking.

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

Vermont Department of Health

Vermont League of Cities and Towns

Regional Planning Commissions

Green Mountain Water Environment Association

New England Water Works Association

Vermont Rural Water Association

Owners/operator of every community and non-transient non-community public water system in Vermont

Consulting engineers: Dufresne and Associates, Otter Creek Engineering, MSK Engineering, A+E (Aldrich and Elliot), Weston and Sampson, Green Mountain Engineering, TCE (Trudell)



## Public Input

Environmental advocacy groups: Conservation Law Foundation, Toxics Action Coalition, Vermont Public Interest Research Group

Analytical labs: Vermont Department of Health Laboratory, Endyne, Inc.

## Administrative Procedures – Scientific Information

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the Scientific Information Statement, an agency shall provide a brief summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

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**1. TITLE OF RULE FILING:**

**Water Supply Rule**

**2. ADOPTING AGENCY:**

Agency of Natural Resources

**3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:**

The Vermont Department of Health issued a cumulative Drinking Water Health Advisory of 20 nanograms per liter for five PFAS. The Agency of Natural Resources defers to the Vermont Department of Health in its expertise in toxicology and risk assessment.

**4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:**

Memorandum regarding the Drinking Water Health Advisory for Five PFAS (per- and polyfluorinated alkyl substances), Vermont Department of Health, dated July 10, 2018, available on the internet at:

[http://www.healthvermont.gov/sites/default/files/documents/pdf/ENV\\_DW\\_PFAS\\_HealthAdvisory.pdf](http://www.healthvermont.gov/sites/default/files/documents/pdf/ENV_DW_PFAS_HealthAdvisory.pdf)

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE  
DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY  
OR OTHER PUBLISHING ENTITY:

The document above is available on the internet at the address identified above or is available from the Agency of Natural Resources by contacting the Drinking Water and Groundwater Protection Division at 802-236-1483.

## Administrative Procedures – Incorporation by Reference

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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1. TITLE OF RULE FILING:

**Water Supply Rule**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

Incorporated by reference is the Environmental Protection Agency's National Exposure Research Laboratory Method 537.1, a sample collection method for monitoring PFAS in drinking water.

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

Shoemaker, J. and Dan Tettenhorst, Method 537.1: Determination of Selected Per- and Polyfluorinated Alkyl Substances in Drinking Water by Solid Phase Extraction and Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS), Version 1.0, U.S. Environmental Protection Agency, Office of Research and Development, National Center for Environmental Assessment, Washington, DC, dated November 2018, available on the internet at:  
[https://cfpub.epa.gov/si/si\\_public\\_record\\_Report.cfm?dirEntryId=343042&Lab=NERL](https://cfpub.epa.gov/si/si_public_record_Report.cfm?dirEntryId=343042&Lab=NERL)

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

## Incorporation By Reference

The document above is available on the internet at the address identified above or is available from the Agency of Natural Resources by contacting the Drinking Water and Groundwater Protection Division at 802-236-1483.

6. **MODIFICATIONS** (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

No modifications were made.

Run Spell Check



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** September 9, 2019, Pavilion Building, 5<sup>th</sup> floor conference room, 109 State Street, Montpelier, VT 05609

**Members Present:** Chair Brad Ferland, Jennifer Mojo, John Kessler, Matt Langham, Steve Knudson, Clare O'Shaughnessy, and Ashley Berliner (via phone)

**Members Absent:** Dirk Anderson and Diane Bothfeld

**Minutes By:** Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the August 9, 2019 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
  1. 2019 Vermont Fire Service Training Council Rules and Policies, Vermont Fire Service Training Council, page 2
  2. Substance Use Disorder Treatment Certification Rule, Agency of Human Services, Department of Health, page 3
  3. Insurance Regulatory Sandbox; Innovation Waiver Regulation; Department of Financial Regulation, page 4
  4. Rule 3.700 Pole Attachments, Vermont Public Utility Commission, page 5
  5. Vital Records Rule, Agency of Human Services, Department of Health, page 6
  6. Water Supply Rule, Agency of Natural Resources, page 7
- Next scheduled meeting is October 14, 2019 at 2:00 p.m.
- 3:42 p.m. meeting adjourned.

**Proposed Rule: 2019 Vermont Fire Service Training Council Rules and Policies, Vermont Fire Service Training Council**  
**Presented by Christopher Corbin, Joseph Benard and Peter Lynch**

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

1. Proposed Rule Coversheet, page 3, #7: Add a period after the A in 3 V.S.A., and remove the extra spaces between ...( and Administrative Procedures Act)...
2. Proposed Rule Coversheet, pages 3-4, #13-15: Complete.
3. Public Input, page 1, #4: Include a dominate theme of comments if appropriate. Post all explanations publicly. Change the incorrectly spelled word 'rejectd' to 'rejected'.
4. Explanation of Changes to 2019 Proposed Rule:
  - a. Section 4.1: Remove the 's' from 'eliminates' in the first sentence. Change 'broader' to 'broad' in the second sentence. Change ; to , after 'programs' in the last sentence.
  - b. Section 5.5: Add 'put in' between ...'Council to' and 'place recertification'... in the first sentence.
  - c. Section 5.6: Change 'to' to 'the' between ...'who has not met' and 'minimum rectification'... in the first sentence.
5. Replace the January 1, 2007 rule to clean text of the new proposed rule.

**Proposed Rule: Substance Use Disorder Treatment Certification Rule, Agency of Human Services,  
Department of Health  
Presented by David Englander**

Motion made to accept the rule by Steve Knudson, seconded by John Kessler, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #7: Add a period after the 'A' in 18 V.S.A. Change 'provides that' to 'directs' in the second paragraph.
2. Proposed Rule Coversheet, page 3, #9 and #10: Add 'disorder' between 'substance use' and 'treatment'.
3. Proposed Rule Coversheet, page 4, #16: Define ADAP and add 'Substance Abuse'.
4. Adopting Page, page 1, #4: Add a period at the end of the sentence.
5. Economic Impact, page 2, #8: Either strike the last sentence or expand upon the reasoning.

DRAFT



**Proposed Rule: Insurance Regulatory Sandbox; Innovation Waiver Regulation; Department of Financial Regulation**

**Presented by Sebastian Arduengo and Jill Rickard**

Motion made to accept the rule by Jen Mojo, seconded by Matt Langham, and passed unanimously except for Steve Knudson who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #6 and #7: Remove the second §.
2. Proposed Rule Coversheet, page 5, #14 and #15: Update to correct dates.
3. Economic Impact Analysis, page 2, #6: Include a statement about the intent of creating an opportunity for potential savings in the future by having more efficient products and services.
4. Incorporation by Reference, page 1, #5: Include a phone number as well.
5. Clean text: Include dates when known.

DRAFT

**Proposed Rule: Rule 3.700 Pole Attachments, Vermont Public Utility Commission**  
**Presented by Micah Howe and John Gerhard**

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

1. Proposed Rule Coversheet, pages 2-3, #6: Remove the second §.
2. Proposed Rule Coversheet, pages 4-5, #14 and #15: Complete.
3. Proposed Rule Coversheet, page 5, #16: Add 'Pole Attachments'.
4. Environmental Impact Analysis, pages 1-2, #3-8: Include positive impacts – examples may include: increased broadband leads to increased remote worker opportunities; reduces vehicle miles driven per capita; preserves highway infrastructure; and reduces carbon emissions.
5. Public Input, page 1, #3: Complete.
6. Public Input, page 1, #2: Include scheduled hearings and post on website.

DRAFT

**Proposed Rule: Vital Records Rule, Agency of Human Services**  
**Presented by Brendan Atwood**

Motion made to accept the rule by Steve Knudson, seconded by Jen Mojo, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations:

1. Proposed Rule Coversheet, pages 2-3, #6 and #7: Remove the second §.
2. Proposed Rule Coversheet, page 2, #6: Change first reference to '18 V.S.A. § 5000 (e) and (f), and ...
3. Proposed Rule Coversheet, page 3, #9: In the first sentence after the last comma, change to ...'and pursue other activities essential to being a' .... Change 'Vermont State employees' to 'State of Vermont employees'. Change the capital 'D' to a lowercase 'd' in the word 'delayed'.
4. Proposed Rule Coversheet, page 3, #10: In the first sentence, change the word 'those' to 'individuals'. Change 'State employees' to 'State of Vermont employees'.
5. Proposed Rule Coversheet, page 3, #11: Change 'Vermont State employees' to 'State of Vermont employees'.
6. Economic Impact Analysis, page 1, #3: Include how this will favorably affect State of Vermont employees and anything else that it will have a positive impact on.

DRAFT

**Proposed Rule: Water Supply Rule, Agency of Natural Resources**  
**Presented by Ellen ParrDoering**

Motion made to accept the rule by John Kessler, seconded by Matt Langham, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #6: Change 'Act 21 of 2019, § 3 (a)' to 'Sec. 3 (a) of Act 21 of 2019'.
2. Proposed Rule Coversheet, page 4, #11: Add 'of those who provide' between ...'and ultimately are paying customers' and 'for the resource'.
3. Proposed Rule Coversheet, page 6, #16: Add 'drinking water' and 'water supply'.
4. Adopting Page, page 1, #4: Add a period at the end of the sentence.
5. Economic Impact Analysis, page 2, #3: Include a statement about due to the fact that this is very early in the approach, there is minimal experience thus far to estimate costs for ongoing maintenance.
6. Environmental Impact Analysis, page 2, #9: Given the last 3.5 years, it may make sense to state more on this issue. As monitoring under this amended rule is done, more environmental damage will possibly be uncovered and therefore should be stated.
7. Public Input, page 2, #4: Include website address and phone number.

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