

## Administrative Procedures – Final Proposed Rule Filing

### 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.

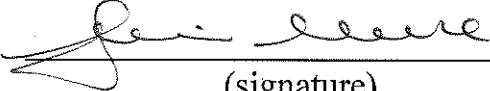
All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

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:

### Stormwater Management Rule

 \_\_\_\_\_, on 1/8/2019  
 (signature) (date)

Printed Name and Title:  
 Julie Moore, Secretary  
 Agency of Natural Resources

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:

**Stormwater Management Rule**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

18P-042

3. ADOPTING AGENCY:

Agency of Natural Resources

4. PRIMARY CONTACT PERSON:

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

Name: Padraic Monks

Agency: Natural Resources

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

Telephone: 802 490 - 6169 Fax: -

E-Mail: padraic.monks@vermont.gov

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

[www.http://dec.vermont.gov/watershed](http://dec.vermont.gov/watershed)

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: Matt Chapman, General Counsel

Agency: Natural Resources

Mailing Address: Agency of Natural Resources, Davis  
Building - 2nd Floor, 1 National Life Drive,  
Montpelier, VT 05620

Telephone: 802 249 - 4393 Fax: -

E-Mail: matt.chapman@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).*

10 V.S.A. § 1264(f).

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

10 V.S.A. § 1264(a)(2)(B) directs the Secretary of the Agency of Natural Resources to implement a stormwater permitting program. 10 V.S.A. § 1264(f) directs the Secretary to adopt rules to manage stormwater runoff.

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT 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 NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS NOT 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 is being repealed because it is being replaced by the Ch. 22 Stormwater Permitting Rule, which is a comprehensive rule for regulating all stormwater discharges.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The repeal of this Rule is necessary to adopt the comprehensive Ch. 22 Stormwater Permitting Rule.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The repeal of the rule is not arbitrary because it is done in accordance with state statute (10 V.S.A. § 1264).

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

- owners of impervious surface

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- developers
- municipalities
- farmers
- state agencies and departments, including the Vermont Agency of Transportation; Agency of Agriculture, Food and Markets; the Agency of Commerce and Community Development; and the Department of Buildings and General Services
- engineers, designers, consultants, and contractors, who design and construct stormwater systems and work on stormwater permit applications
- the public at large with an interest in water quality

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

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

**19. A HEARING WAS NOT 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:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Final Proposed Coversheet

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

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

10/1/2018

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

stormwater

storm water

operational

vermont stormwater management manual

# 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.

1. TITLE OF RULE FILING:  
**Stormwater Management 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 **A REPEAL OF AN EXISTING RULE** .

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

SOS Log #05-15; The Vermont Department of Environmental Conservation Chapter 18- Stormwater Management Rule; adopted July 4, 2005, with amendments last adopted March 15, 2011 (SOS Log # 11-014) and July 1, 2017 (SOS Log # 16-070)

# 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:

**Stormwater Management 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:*

- owners of impervious surface
- developers
- municipalities
- farmers
- state agencies and departments, including the Vermont Agency of Transportation; Agency of Agriculture, Food

## Economic Impact Analysis

and Markets; the Agency of Commerce and Community Development; and the Department of Buildings and General Services

- engineers, designers, consultants, and contractors, who design and construct stormwater systems and work on stormwater permit applications

- the public at large with an interest in water quality

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

### 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:*

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

### 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.*

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

### 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):*

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt



## Economic Impact Analysis

these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

### 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.*

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

### 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:*

This rule is a conforming change to delete unnecessary requirements due to a change to the Chapter 22 comprehensive stormwater rule. A failure to adopt these deletions would result in confusion, duplicative requirements and increased cost to the regulated community.

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

The economic analysis is based on best available information.

# 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:

**Stormwater Management 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.

### 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.):*

The rule clarifies the regulatory provisions that govern the discharge of stormwater to waters of the state -- deleting unnecessary requirements and ensuring that Chapter 22 is the single rule addressing water quality improvements in the State.

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

None.

Environmental Impact Analysis

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

None.

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

None.

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

See the forms for the comprehensive Ch. 22 Stormwater Permitting Rule.

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

None.

# 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:

1. TITLE OF RULE FILING:

**Stormwater Management 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:

Outreach with respect to this repeal was performed as a part of the enactment of amendments to Chapter 22. The Agency has conducted pre-rulemaking outreach with numerous stakeholders prior to filing those proposed revisions.

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

Discussion of this repeal will be addressed concurrently with the outreach efforts we are undertaking on the revisions to Chapter 22. No specific hearing will be held on this repeal.

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

The Agency expects involvement from all of the following groups:

- owners of impervious surface
- developers and ski areas
- municipalities

## Public Input

- farmers
- state agencies and departments, including the Vermont Agency of Transportation; the Agency of Agriculture, Food and Markets; the Agency of Commerce and Community Development; and the Department of Buildings and General Services
- engineers, designers, consultants, and contractors, who design and construct stormwater systems and work on stormwater permit applications
- the public at large with an interest in water quality

# 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.

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

**1. TITLE OF RULE FILING:**

**Stormwater Management Rule**

**2. ADOPTING AGENCY:**

Agency of Natural Resources

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

See the forms for the comprehensive Ch. 22 Stormwater Permitting Rule.

**4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:**

See the forms for the comprehensive Ch. 22 Stormwater Permitting Rule.

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

See the forms for the comprehensive Ch. 22 Stormwater Permitting Rule.

**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*):**

See the forms for the comprehensive Ch. 22 Stormwater Permitting Rule.

Run Spell Check