

LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

The Legislative Committee on Administrative Rules adopts the following rules of procedure under the authority of 3 V.S.A. § 817(b).

§ 1. MEETINGS

(a) In discharging its responsibility to review administrative rules, the committee may conduct meetings, public hearings, consult with representatives of an agency adopting a rule, or take testimony from any person interested in a proposed, final proposed or emergency rule.

(b) Notice of any meeting at which a final proposed rule will be considered shall be given by distributing a copy of the agenda to each person scheduled to testify at that meeting and to any person who notifies the Legislative Council that he or she would like to be notified of the meeting.

(c) A public hearing shall be held if the committee reviews an existing rule or it reviews a proposed rule before the rule is filed as a final proposed rule with the Secretary of State and the committee. Public hearings shall be conducted under 3 V.S.A. § 817(c). The committee shall give public notice of any public hearing at least 10 days in advance and shall notify the agency affected.

(d) All testimony shall be recorded. Testimony shall be transcribed at the request of a member of the committee.

(e) Minutes of all meetings shall be kept by the committee's staff or by one of the members of the committee.

(f) All meetings shall be open to the public unless an executive session is approved under 1 V.S.A. § 313.

(g) Meetings shall be called by the chair or, in his or her absence, by the vice-chair.

§ 2. AGENDA

(a) Any committee member, member of the general public or staff member may bring up as new business an item which he or she believes is deserving of the attention of the committee.

(b) Any new business brought up shall be pursued and investigated by the committee if three members of the committee approve of further inquiry.

(c) Committee staff shall prepare an agenda for each meeting in consultation with the chair or vice-chair.

§ 3. WITNESSES

(a) Witnesses who are on the agenda will be permitted to testify. A witness for the agency proposing the rule is deemed to be on the agenda. A person whose name does not appear on the printed agenda may request that he or she be placed on the agenda. A request to be on the agenda will be granted provided it is made at least 24 hours in advance of the meeting at which the person wishes to testify.

(b) Notwithstanding the provisions of subsection (a), an untimely request to be on the agenda, or a request to testify after testimony has been closed, will be granted upon majority vote of the members present and voting.

(c) The committee may refuse to hear repetitive oral testimony and it may request that members of an organization designate a spokesperson for the purpose of testifying.

(d) Any person may submit written testimony on a rule that is before the committee.

§ 4. MOTIONS

(a) A motion does not require a second.

(b) Motions to object to a final proposed rule shall be in order only if made on grounds that:

- (1) the rule is arbitrary,
- (2) the rule is beyond the authority delegated to the agency,
- (3) the rule is contrary to the intent of the legislature,
- (4) the agency did not adhere to the strategy for maximizing public input

prescribed by the interagency committee on administrative rules,

- (5) the rule is not written in a satisfactory style according to 3 V.S.A. § 833, or
- (6) the rule is not accompanied by an adequate economic impact statement.

(c) In the case of an emergency rule the committee may object on any of the grounds listed in (b)(1)-(3) or if the rule is not necessitated by an imminent peril to public health, safety or welfare suffice to justify adoption of an emergency rule.

(d) A motion to object is in order whether or not an agency has been given opportunity to be heard at a consultation or meeting.

(e) A motion to object to a rule requires a majority vote of the entire committee. The committee staff shall promptly notify the sponsoring agency of the committee's objection, and request the agency to respond in writing to the committee's objection within 14 days. After receipt of the agency's response, the committee may withdraw or modify its objection.

(f) Once an objection has been made under subsection (b)(1)-(4) of this section, the review period under 3 V.S.A. § 842 shall cease to run until the agency notifies the committee that it has cured the defect or that it does not intend to cure the defect and will proceed to adopt the rule without change.

(g) The committee may object one time on the grounds that the rule fails to recognize a substantial economic impact and return the rule to the agency as unacceptable for filing. The review period will begin to run anew when the rule is refiled.

(h) If an objection based on the grounds described in subdivisions (b)(1)-(4) or subsection (c) of this section is not withdrawn after the agency responds, on majority vote of the entire committee, the committee may file the objection in certified form with the Secretary of State for purposes of 3 V.S.A. §§ 842(b) or 844(e). The objection letter shall contain a concise statement of the committee's reasons for its action.

(i) Unless a motion otherwise provides,

(1) A vote to approve a rule also authorizes modifications of a technical and typographical nature.

(2) A vote to approve a rule with specific modifications also authorizes modifications of a technical and typographical nature and, if necessary, additional modifications consistent with those specifically approved.

§ 5. FILINGS

(a) A final proposed rule is not considered filed with the committee unless it is accepted as a complete final proposed rule by the Legislative Council staff. A complete final proposal shall include paper copies of all written comments submitted to the agency on the proposed rule, except that the chair of the committee may authorize acceptance of electronic copies if the written comments are voluminous. Papers accepted for filing for the benefit of the committee shall be acknowledged promptly. Final proposed rules that fail to comply with the requirements of 3 V.S.A. § 838 or 833 or are illegible will not be accepted as complete and staff shall promptly return them to the agency with the reasons for rejection clearly stated in writing.

(b) Legislative Council staff shall distribute, by email or regular mail, final proposed rules to the chairs of the appropriate standing committees, along with a notice which explains the committee's schedule for taking action on the rule and the grounds under which the committee

may object to the rule, and a questionnaire which solicits feedback from those chairs. In addition, upon request, each member of the appropriate standing committee shall be notified by email or in summary fashion that the final proposed rule has been filed, the date of filing, and, upon request, shall be provided with a copy of the filing.

(c) A final proposed or adopted rule shall be considered to have been filed on the date it is received by the Legislative Council, if the rule is received on or before 4:30 p.m. A rule received for filing after 4:30 p.m. will be considered to have been filed on the next workday.

§ 6. RULES BASED ON FEDERAL REQUIREMENTS

An agency which claims that its final proposed rule or emergency rule is required by federal law shall also file citations to and a summary or copy of such law. The summary shall be prepared by an attorney for the agency, or other person familiar with federal law, who shall be available to answer the committee's questions about the provision of federal law that is the basis for the final proposed rule or emergency rule.

§ 7. TIME LIMITATIONS

(a) The committee has 30 days from the date on which a final proposed rule is first placed on its agenda or 45 days from the date on which a final proposed rule is properly filed with the Legislative Council, whichever occurs first, in which to take action on the rule. This statutory limitation on the committee's time for reviewing rules shall not apply if the agency agrees to waive or extend the review period. For purposes of computing the review period, the date that the rule first appears on the committee's agenda or the date the rule is filed, as appropriate, shall not be counted and the final day shall be counted.

(b) The committee may, upon a majority vote of its members present and voting, extend the period for adoption of a rule under 3 V.S.A. § 843. A proportionate extension will be granted

automatically to an agency unable to meet the eight month deadline because it granted the committee a waiver of the review period. The committee's action under this subsection will be certified to the Secretary of State.

§ 8. PETITIONS; REFERRAL TO STANDING COMMITTEE

If the committee determines that a petition to review an existing rule actually involves a problem with the administration of a rule or the underlying statute, the committee may refer the matter to the appropriate standing committee for further investigation. Staff shall forward all supporting materials together with a summary of the committee's concerns to the committee to which the matter is referred.

§ 9. SUSPENSION OF RULES

These procedural rules of the committee may be suspended by an affirmative vote of a majority of the members present and voting.

§ 10. AMENDMENT OF RULES

These procedural rules of the committee may be amended by a majority vote of the members.

Adopted August 14, 2002; revised October 19, 2005; revised November 28, 2007; revised 6/28/12