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Office of the Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: May 14, 2018, Pavilion Building, 4th floor conference room, 109 State Street, Montpelier, VT 05609

Members Present: Chair Brad Ferland, Dirk Anderson, Diane Bothfeld, John Kessler, Matthew Langham and Steve Knudson.

Members Absent: Clare O'Shaughnessy and Jennifer Mojo. Ashley Berliner called in, however due to a poor phone connection on her end, she had to terminate the call and couldn't participate.

Minutes By: Melissa Mazza-Paquette

- 2:04 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the April 9, 2018 meeting.
- Review and approval of minutes from the April 12, 2018 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 3-15 to follow.
 1. Administrative Rules of the Board of Public Accountancy, Office of Professional Regulation, page 3
 2. 2018 Vermont Passenger Tramway Rules adopting ANSI B.77, Vermont Department of Labor and the Vermont Passenger Tramway Board, page 4
 3. Passenger Tramway Safety Rules & Addendum to ANSI B77.1, Vermont Department of Labor and the Vermont Passenger Tramway Board, page 5
 4. Underground Storage Tank (UST) Rules, Vermont Agency of Natural Resources, Department of Environmental Conservation, page 6
 5. Radiological Health Rule, Agency of Human Services, Department of Health, page 7
 6. Vermont Workers' Compensation Vocational Rehabilitation Rules, Vermont Department of Labor, page 8
 7. Miscellaneous Amendments to the Vermont Air Pollution Control Regulations, Agency of Natural Resources, Department of Environmental Conservation, page 9



8. Amendments to Vermont CO2 Budget Trading Regulations, Agency of Natural Resources, Department of Environmental Conservation, page 10
9. Response to Child Abuse and Neglect, Agency of Human Services, Department of Children and Families, Family Services Division, page 11
10. Child Protection Registry and Administrative Review Process, Agency of Human Services, Department of Children and Families, Family Services Division, page 12
11. Child Protection Registry, Agency of Human Services, Department of Children and Families, Family Services Division, page 13
 - 4:10 p.m. member John Kessler left
12. Maintenance and Access to Records, Agency of Human Services, Department of Children and Families, Family Services Division, page 14
13. Rules for the Certification and Selection of Vote Tabulators by the Secretary of State; the Use of Tabulators Generally; the Use of Tabulators in Recounts; and the Use of Tabulators in Post-Election Audits, Office of the Secretary of State, page 15
 - Next scheduled meeting is June 11, 2018 at 2:00 p.m.
 - 4:25 p.m. meeting adjourned.

Proposed Rule: Administrative Rules of the Board of Public Accountancy; Office of Professional Regulation

Presented by: Gabe Gilman, Office of Professional Regulation

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

1. Add the position title to all necessary forms for Joshua W. Partlow, CPA.
2. Proposed Rule Coversheet, page 3, #10: Explain the rationale for the expected economic impact.
3. Proposed Rule Coversheet, page 3, #11 and #12: Suggest holding a public hearing and including the information.
4. Economic Impact Statement, page 2, #3: Add an explanation of basis about the last sentence "... a commensurate reduction in expense is expected...".
5. Public Input Statement, #3: Change last sentence to read "The Board infers it has heard from all persons interested in commenting."
6. Clean Text, page 4, #3-1 and #3-2: Include how to obtain information other than online, such as a phone number.

Proposed Rule: 2018 Vermont Passenger Tramway Rules adopting ANSI B.77, Vermont Department of Labor and the Vermont Passenger Tramway Board

Presented by: Michael Harrington and Mike Nellis, Department of Labor

Motion made to accept the rule by Diane Bothfeld, seconded by Steve Knudson, and passed unanimously except for Dirk Anderson who abstained, with the following recommendations:

1. Include the Rule Title on all appropriate pages and define what ANSI is prior to the acronym.
2. Proposed Rule Coversheet, page 3, #7, 1st sentence: Remove the extra T in ‘The’ and define ANSI prior to the acronym.
3. Proposed Rule Coversheet, page 3, #8, 1st sentence: Remove the ‘and’ or reword sentence to read “The proposed rules are necessary to establish the standard of care and mandate ski area operators’ compliance with industry best practices.”
4. Proposed Rule Coversheet, page 3, #10, 2nd sentence: Clarify ‘significantly’; include a range in scope and dollar amount; and define the threshold of adequate notice.
5. Proposed Rule Coversheet, page 4, #12: Include the information for the hearing that is scheduled, as defined in #11.
6. Proposed Rule Coversheet, page 5, #14: Include ‘ski lift’. Compare with the keywords from the ‘Passenger Tramway Safety Rules & Addendum to ANSI B77.1, Vermont Department of Labor and the Vermont Passenger Tramway Board’ proposed rule and be consistent with both.
7. Economic Impact Statement, page 2, #2: Capitalize ‘Tramway’.
8. Public Input Statement, page 1, #3: Capitalize the ‘s’ in ‘service’ to read ... “US Forest Service personnel...”. Include a comma after ‘advertising’ in the last sentence.
9. Incorporation by Reference Statement, page 2, #4: Include website address and how to obtain information other than online, such as a phone number.

Proposed Rule: Passenger Tramway Safety Rules & Addendum to ANSI B77.1, Vermont Department of Labor and the Vermont Passenger Tramway Board

Presented by: Michael Harrington and Mike Nellis, Department of Labor

Motion made to accept the rule by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Dirk Anderson who abstained, with the following recommendations:

1. Include the Rule Title on all appropriate pages and define what ANSI is prior to the acronym.
2. Proposed Rule Coversheet, page 3, #9: Add a comma between ‘snowboarders’ and ‘mountain bikers’.
3. Proposed Rule Coversheet, page 3, #10, 1st sentence: Clarify the material economic impact.
4. Proposed Rule Coversheet, page 3, #12: Include the information for the hearing that is scheduled, as defined in #11.
5. Proposed Rule Coversheet, page 4, #13: Include the deadline.
6. Proposed Rule Coversheet, page 4, #14: Include ‘ski lift’. Compare with the keywords from the ‘2018 Vermont Passenger Tramway Rules adopting ANSI B.77, Vermont Department of Labor and the Vermont Passenger Tramway Board’ proposed rule and be consistent with both.
7. Economic Impact Statement, page 2, #3: Add a comma between ‘snowboarders’ and ‘mountain bikers’.
8. Economic Impact Statement, page 2, #5: Add a comma between ‘procedures’ and ‘no’ in the first sentence. Explain how it ‘may save time and money’ as referenced in the second sentence.
9. Economic Impact Statement, page 2, #5, 2nd sentence: Add a comma between ‘lifts’ and ‘it’. Remove the last period after ‘money’ and add a timeframe.
10. Economic Impact Statement, page 3, #7B: Provide an answer.
11. Public Input Statement, page 1, #3, 1st sentence: Capitalize the ‘s’ in ‘service’ to read ... “US Forest Service personnel...”.
12. Public Input Statement, page 1, #4, 1st sentence: Confirm if the ‘I’ in ‘Insurers’ should be capitalized. Add a comma between ‘electrical engineers’ and ‘the general public’.
13. Annotated Text: Define ‘passenger tramways’.
14. Annotated Text: ‘Passenger tramways’ and passenger ropeways’ seem to be used interchangeably. Instead of switching use, standardize language throughout to be consistent, if possible.
15. Annotated Text, page 2, Section 1.03 (a) and (b): Add ‘s’ to ‘operate’ between ‘who’ and ‘a’.
16. Annotated Text, page 5, Section 2.01 (c)(vii): Define ‘NDT’ prior to the acronym.
17. Annotated Text, page 6, (b): Define ‘EWRT’ prior to the acronym.
18. Annotated Text, page 11, Section 3.02 (a)(i): Define ‘ASNT-TC-1A’.
19. Annotated Text, page 12, (iv): Define ‘MRT’ prior to the acronym.
20. Annotated Text, page 21, (c): Add ‘.’ after the last word ‘the’.

Proposed Rule: Underground Storage Tank (UST) Rules, Vermont Agency of Natural Resources, Department of Environmental Conservation

Presented by: Ted Unkles, Vermont Agency of Natural Resources, Department of Environmental Conservation

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

1. Proposed Rule Coversheet, page 5, #14: Remove duplicate 'oil tanks' and add 'hazardous materials'.
2. Adopting Page, #5: Provide the SOS Log # and title.
3. Economic Impact Statement, #3: Define 'BGS, DPS, VTrans' before the acronyms. Include any other agencies or departments in state government, such as Department of Corrections (DOC).
4. Annotated Text, page 3-5, (2): Remove 'specified' after 'permit fee'.

Proposed Rule: Radiological Health Rule, Agency of Human Services, Department of Health

Presented by: David Englander, Department of Health

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

1. Proposed Rule Coversheet, page 3, #7: Include how the rule change establishes Vermont becoming an Agreement State as described in the Economic Impact Statement, page 2, #5.
2. Proposed Rule Coversheet, page 3, #10: Expand upon the fees to the Nuclear Regulatory Commission and to Vermont, as well as the number of licensed facilities.
3. Proposed Rule Coversheet, page 4, #14: Include ‘Doctors’, ‘Dentists’, ‘Veterinarians’, and ‘Medical Practitioners’.
4. Adopting Page, #5: Include the title.
5. Public Input Statement, #3: Include a phone number where paper copies may be obtained.

Proposed Rule: Vermont Workers' Compensation Vocational Rehabilitation Rules,
Vermont Department of Labor

Presented by: Phyllis Phillips, Department of Labor

Motion made to accept the rule by Steve Knudson, seconded by Diane Bothfeld, and passed unanimously except for Dirk Anderson who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #7: Define 'SSDI' before the acronym.
2. Proposed Rule Coversheet, page 6, #12: Include information for the hearing that's scheduled as indicated in #11.
3. Economic Impact Statement, page 3, #3, last sentence of 3rd paragraph: Define what total after the '2%'.
4. Public Input Statement, pages 1 and 2, #3: If appropriate, include the Vermont City and Town Leagues. Can remove the last sentence (page 2) as Vermont Interactive Television is no longer in service.
5. Scientific Information Statement: Only required when a rule relies on scientific information for its validity, therefore this statement is not necessary to include for this proposed rule.
6. Annotated Text, page 29, #60.1100: Rule 60.8100 is transposed and should read as Rule 60.1800.

Proposed Rule: Miscellaneous Amendments to the Vermont Air Pollution Control Regulations, Agency of Natural Resources, Department of Environmental Conservation

Presented by: Megan O'Toole, Agency of Natural Resources, Department of Environmental Conservation

Motion made to accept the rule by John Kessler, seconded by Dirk Anderson, and passed unanimously, with the following recommendation:

1. Proposed Rule Coversheet, page 4, #14: In addition to the acronyms, also include their full defined term.
2. VAPCR Adopted November 2016 text, page 58, #7 (i): Define HVLP prior to acronym.

Proposed Rule: Amendments to Vermont CO2 Budget Trading Regulations, Agency of Natural Resources, Department of Environmental Conservation

Presented by: Megan O'Toole and Brian Woods, Agency of Natural Resources, Department of Environmental Conservation

Motion made to accept the rule as presented by Diane Bothfeld, seconded by John Kessler, and passed unanimously. No recommendations were made.

Proposed Rule: Response to Child Abuse and Neglect, Agency of Human Services,
Department of Children and Families, Family Services Division

Presented by: Leslie Wisdom and Cindy Walcott, Agency of Human Services, Department of
Children and Families, Family Services Division

Motion made to accept the rule by Dirk Anderson, seconded by Steve Knudson, and passed
unanimously, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #7, last sentence: Explain why it's "more appropriately addressed in policy".
2. Economic Impact Statement, page 3, #6: Include child care operational centers if appropriate.
3. Public Input Statement, page 2, #3: Provide background information from earlier public input.

Proposed Rule: Child Protection Registry and Administrative Review Process, Agency of Human Services, Department of Children and Families, Family Services Division

Presented by: Leslie Wisdom and Cindy Walcott, Agency of Human Services, Department of Children and Families, Family Services Division

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

1. Proposed Rule Coversheet, page 3, #7 (1), last sentence: Clarify that the reference is regarding the perpetrator and not the children.
2. Annotated Text, page 5, #3005 (2): Change 'person' to 'person's'.

Proposed Rule: Child Protection Registry, Agency of Human Services, Department of Children and Families, Family Services Division

Presented by: Leslie Wisdom and Cindy Walcott, Agency of Human Services, Department of Children and Families, Family Services Division

Motion made to accept the repealed rule as presented by Diane Bothfeld, seconded by Dirk Anderson, and passed unanimously. No recommendations were made.

Proposed Rule: Maintenance and Access to Records, Agency of Human Services,
Department of Children and Families, Family Services Division

Presented by: Leslie Wisdom and Cindy Walcott, Agency of Human Services, Department of
Children and Families, Family Services Division

Motion made to accept the rule by John Kessler, seconded by Steve Knudson, and passed
unanimously, with the following recommendation:

1. Economic Impact Statement, page 2, #3, 2nd paragraph, 3rd sentence: Change ‘abuse’ to
‘abused’.

Proposed Rule: Rules for the Certification and Selection of Vote Tabulators by the Secretary of State; the Use of Tabulators Generally; the Use of Tabulators in Recounts; and the Use of Tabulators in Post-Election Audits, Office of the Secretary of State

Presented by: Will Senning, Office of the Secretary of State

Motion made to accept the rule by Steve Knudson, seconded by Dirk Anderson, and passed unanimously, with the following recommendations:

1. Name, title, signature and date of the Secretary of State should be on every appropriate page.
2. Proposed Rule Coversheet, page 2, #3 and #4: Add city, state, and zip code to the Mailing Address.
3. Proposed Rule Coversheet, page 3, #8, 2nd sentence: change ‘tabualtors’ to ‘tabulators’.
4. Proposed Rule Coversheet, page 4, #11: Change to ‘TBD’.
5. Economic Impact Statement, page 3 (e): Provide an answer.
6. Public Input Statement, page 1, #3: Change ‘peoposed’ to ‘proposed’ in the first sentence. Add a few more words to the second sentence to make clearer.
7. Public Input Statement, page 1, #3: Add the title of Willem Jewett.
8. Scientific Information Statement: Only required when a rule relies on scientific information for its validity, therefore this statement is not necessary to include for this proposed rule.
9. Incorporation By Reference Statement, page 2, #3: Change ‘memeory’ to ‘memory’.
10. Incorporation By Reference Statement, page 2, #4: Add website address and phone number to obtain copies.
11. Incorporation By Reference Statement, page 2, #5, 1st sentence: Remove the uppercase U to read ‘Guide’.
12. Incorporation By Reference Statement, page 2, #6 and #8: Use ‘Office of the Secretary of State’ instead of ‘Agency’.
13. Clean Text, last page, (j), 1st sentence: Include ‘or her’ between ‘his’ and ‘staff’.