



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** August 17, 2021, 3:00 PM, Physical Location: Pavilion Building, 109 State Street, 5th Floor, Montpelier, VT 05609; Virtual Option: Via Microsoft Teams Available

**Members Present:** Chair Kristin Clouser, Dirk Anderson, Ashley Berliner, Diane Bothfeld, Jennifer Mojo, John Kessler, Diane Sherman, Clare O'Shaughnessy and Michael Obuchowski

**Minutes By:** Melissa Mazza-Paquette

- 3:02 p.m. meeting called to order, welcome and introductions.
  - Introduction of new ICAR member Mike Obuchowski, Agency of Transportation.
- Review and approval of minutes from the [July 12](#) and [July 14](#), 2021 meetings, with abstention from those not in attendance of those prior meetings.
- Note: The following emergency rules were supported by ICAR Chair Clouser:
  - 1) 'VOSHA Subpart U/ COVID 19 Emergency Temporary Standard' by the Vermont Department of Labor on July 15, 2021
  - 2) 'Emergency Administrative Rules for Remote Hearings for the Board of Medical Practice' by the Agency of Human Services, Department of Health on July 26, 2021
- Note change to agenda:
  - Next meeting was moved from September 13, 2021 2:00 PM to September 8, 2021 3:00 PM due to lack of quorum.
  - Agenda approved as drafted with noted change above.
- No public comments made.
- Presentation of the following proposed rules on pages 2-5 to follow.
  1. 10 App. V.S.A. § 10. Vermont endangered and threatened species rule by the Agency of Natural Resources, Department of Fish and Wildlife, page 2
  2. Licensing and Operating Regulations for Therapeutic Community Residences, Agency of Human Services, Department of Disabilities, Aging and Independent Living, page 3
  3. Vermont Department of Financial Regulation Administrative Procedures, Vermont Department of Financial Regulation, page 4
  4. Rule No. S-2016-01 Vermont Securities Regulations Revised 2021, Vermont Department of Financial Regulation, page 5
- Next scheduled meeting is September 8, 2021 at 3:00 p.m.
- Committee discussion of suggested changes to the proposed rule filing forms will be moved to a future meeting to be scheduled separate from the regularly scheduled monthly meeting due to time constraints.
- 4:52 p.m. meeting adjourned.

**Proposed Rule:** 10 App. V.S.A. § 10. Vermont endangered and threatened species rule by the Agency of Natural Resources, Department of Fish and Wildlife

**Presented By:** Catherine Gjessing

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

1. Proposed Rule Coversheet, #5: Either state what information is confidential or remove 'Location confidential' and rely on the statute.
2. Proposed Rule Coversheet, #8:
  - a. Expand upon the American bumble bee as a particular species and include the range of other species.
  - b. Identify what the rule is generally about and the changes.
  - c. Clarify if those threatened and endangered are only in Vermont or national and also in Vermont.
  - d. Identify category of species in layman's terms.
3. Proposed Rule Coversheet, #11:
  - a. Include farmers, farmers associations and groups and organizations who interact with farmers. ICAR member Diane Bothfeld offered to provide a list if requested.
  - b. Provide reference to which groups of individuals and businesses.
4. Proposed Rule Coversheet, #12: Define 'T & E' before using the acronym and include the acronym in parentheses the first time using.
5. Proposed Rule Coversheet, #14 and #15: Complete once determined or state 'TBD'.
6. Adopting Page, #4: Confirm title.
7. Economic Impact Analysis, #3:
  - a. Define 'incidental take permits' and 'small businesses'.
  - b. Identify who is impacted and how is the rule effective.
  - c. Clarify the economic cost and to whom.
  - d. Remove the second 'the' in the second paragraph on page 3.
  - e. Reference guidance documents if available.
8. Economic Impact Analysis, #4: Clarify response.
9. Environmental Impact Analysis, #5: Specify 'do not unduly interfere' in the last sentence.
10. Environmental Impact Analysis, #6: Missing word between 'portions' and 'nesting'.
11. Environmental Impact Analysis, #9: Provide more details on the impact.
12. Public Input, #4: Include plans for a public hearing.
13. Public Input, #5: Clarify 'known' and add how they translate to the Economic Impact Analysis'.
14. Annotated Proposed Rule: The provisions designating critical habitat should be underlined.

**Presented By:** Stuart Schurr

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

1. Proposed Rule Coversheet, #8 and #9: Switch answers and include acronyms listed in #9 in #8 if swapped.
2. Proposed Rule Coversheet, #11: Identify 'TCR' before using acronym and include acronym in parentheses as it's the first time being used.
3. Proposed Rule Coversheet, #12:
  - a. Change 'minimal' to 'negligible' if appropriate.
  - b. Include cost impact to facility.
4. Proposed Rule Coversheet, #13, #14 and #15: Complete once identified or state 'TBD'.
5. Public Input, #5: Include any other affected parties if appropriate.

**Presented By:** Sheila Grace and Karla Nuissl

Motion made to accept the rule by John Kessler, seconded by Jen Mojo, and passed unanimously except for Diane Sherman who left the meeting early, with the following recommendations:

1. Proposed Rule Coversheet, #14 and #15: Complete once identified or state 'TBD'.
2. Economic Impact Analysis, #3: Reference the estimated costs and benefits.
3. Public Input, #3: Describe those referenced in 'the Department continues to engage stakeholders in drafting this rule'.
4. Public Input, #5:
  - a. Identify the 'relevant industry groups and interested persons'.
  - b. Include estimated number in the distribution list.
  - c. Include those engaged already in proposal.
  - d. Describe engagement in #3.

**Presented By:** Erin Moore and Bill Carrigan

Motion made to accept the rule by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Diane Sherman who left early, with the following recommendations:

1. Proposed Rule Coversheet, #13, #14 and #15: Complete once identified or state 'TBD'.
2. Economic Impact Analysis, #7: Add a space between 'thatmost' in the first line.
3. Public Input, #5: Identify NASAA membership.
4. Annotated Proposed Rule, page 78: Consult with Executive Director for Racial Equity before using the term 'Grandfathering' to consider an alternative reference.