

# Administrative Procedures – Proposed Coversheet

## 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 proposed filing will be considered complete upon the submission and acceptance of the following components:

- Proposed Rule Coversheet
- Adopting Page
- Economic Impact Statement
- Public Input Statement
- 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)

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 the proposed coversheet form will be used to generate a notice of rulemaking in the newspapers of record. Publication of notices will be charged back to the promulgating agency based on the word count of the notices.

**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:

**Rule Title: Municipal Pollution Control Priority System**

, on 08/15/17.  
(signature) (date)

Printed Name and Title:

Julia S. Moore, Secretary  
Agency of Natural Resources

RECEIVED BY: \_\_\_\_\_

- ☐ Proposed Rule Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Statement
- ☐ Public Input Statement
- ☐ 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 Approval received by E-mail.

## 1. TITLE OF RULE FILING:

Municipal Pollution Control Priority System

## 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: Eric Blatt, P.E.

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Main 1, Montpelier,  
VT 05620

Telephone: 802 585 - 4901 Fax: -

E-Mail: eric.blatt@vermont.gov

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

<http://dec.vermont.gov/facilities-engineering/rules>

## 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: Elizabeth Schilling, Esq.

Agency: Agency of Natural Resources

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

Telephone: 802 490 - 6102 Fax: -

E-Mail: elizabeth.schilling@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).*

24 V.S.A. § 4759; 10 V.S.A. § 1628

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

This rulemaking is an update to the Municipal Pollution Control Priority System Rule, which ranks water pollution abatement and control projects (e.g. wastewater facility upgrades and stormwater remediation projects) for purposes of awarding federal and state funding, both loans and grants. The Rule includes new criteria and updated processes for ranking projects, pursuant to Act 103 (2016). The Rule also includes the process to determine the amount of grant funding a project may be eligible for.

Additionally, the Rule updates the Subchapter requiring certain projects to demonstrate they will not result in scattered development to focus on project types that are the most likely to cause such issues; updates administrative processes, including public notice requirements; updates definitions consistent with state statute and other rules; clarifies language; and updates formatting, style, and grammar consistent with Department drafting conventions.

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

The rulemaking is necessary to conform with statutory changes adopted in 2016 under Act 103.

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

All municipalities, sewer and stormwater rate payers, and tax payers.

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

The Rule will have no net economic impact because it does not determine how much money will be allocated to projects in general, but rather determines the ranking of projects to receive the loan and grant dollars that have already been allocated by the federal government and State Legislature; the federal government typically allocates approximately \$6-8M annually. Additionally, the Rule does not include any regulatory requirements that would increase project costs.

The revisions to the Rule may result in individual projects receiving a different ranking than they would under the current Rule. Additionally, the amount of grant a project may be eligible for, up to 35%, is now determined via the Rule, rather than state statute, which was a change made as a part of Act 103 (2016).

11. A HEARING IS SCHEDULED .

12. 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: 9/22/2017

Time: 01:30 PM

Street Address: Annex Building, 190 Junction Rd., Berlin, VT

Zip Code: 05602

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

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

09/29/2017

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

Priority Rule

Priority System

Water Pollution Abatement and Control

Water Pollution

Wastewater

Stormwater

Combined Sewer Overflow

CSO

Clean Water State Revolving Fund

CWSRF

Clean Water Funding

# Administrative Procedures – Adopting Page

## Instructions:

This form must be completed for each filing made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

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:

Municipal Pollution Control Priority System

2. ADOPTING AGENCY:

Agency of Natural Resources

3. AGENCY REFERENCE NUMBER, IF ANY:

4. 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**

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

#02-34; Municipal Pollution Control Priority System;  
September 30, 2002 (editorial correction, February  
2015).

# Administrative Procedures – Economic Impact Statement

## Instructions:

In completing the economic impact statement, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule. This form must be completed for the following filings made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

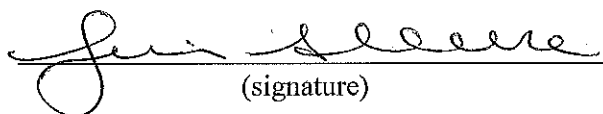
Rules affecting or regulating public education and public schools must include cost implications to local school districts and taxpayers in the impact statement (see 3 V.S.A. § 832b for details).

The economic impact statement also contains a section relating to the impact of the rule on greenhouse gases. Agencies are required to explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted (see 3 V.S.A. § 838(c)(4) for details).

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person.

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I conclude that this rule is the most appropriate method of achieving the regulatory purpose. In support of this conclusion I have attached all findings required by 3 V.S.A. §§ 832a, 832b, and 838(c) for the filing of the rule entitled:

**Rule Title: Municipal Pollution Control Priority System**

 , on 08/15/17  
(signature) (date)

Printed Name and Title:

Julia S. Moore, Secretary  
Agency of Natural Resources

*BE AS SPECIFIC AS POSSIBLE IN THE COMPLETION OF THIS FORM, GIVING FULL INFORMATION ON YOUR ASSUMPTIONS, DATABASES, AND ATTEMPTS TO GATHER OTHER INFORMATION ON THE NATURE OF THE COSTS AND BENEFITS INVOLVED. COSTS AND BENEFITS CAN INCLUDE ANY TANGIBLE OR INTANGIBLE ENTITIES OR FORCES WHICH WILL MAKE AN IMPACT ON LIFE WITHOUT THIS RULE.*

1. TITLE OF RULE FILING:

Municipal Pollution Control Priority System

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 Rule affects municipalities, sewer and stormwater rate payers, and tax payers.

The Rule will have no net economic costs because it does not determine how much money will be allocated to projects in general, but rather determines the ranking of projects to receive the loan and grant dollars that have already been allocated by the federal government and State Legislature. Additionally, the Rule does not include any regulatory requirements that would increase project costs.

The revisions to the Rule may result in individual projects receiving a different ranking than they would under the current Rule. Additionally, the amount of grant a project may be eligible for, up to 35%, is now determined via the Rule, rather than state statute, which was a change made as a part of Act 103 (2016).

The benefits of the Rule include updating and modernizing the Rule criteria to recognize current state priorities.

4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS:*

Municipally-owned schools that are undertaking clean water projects (e.g. stormwater retrofits to a parking



lot) may benefit from use of the subsidized funding available to projects ranked on the Priority List. The Rule does not have any impact on non-municipally owned schools.

5. COMPARISON:

*COMPARE THE ECONOMIC 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 Rule is required for state use of federal funding. Not having the Rule would negatively impact state economics because it would result in the loss of \$6-8M annually. This Rule is not applicable to small businesses.

6. FLEXIBILITY STATEMENT:

*COMPARE THE BURDEN IMPOSED ON SMALL BUSINESS BY COMPLIANCE WITH THE RULE TO THE BURDEN WHICH WOULD BE IMPOSED BY ALTERNATIVES CONSIDERED IN 3 V.S.A. § 832a:*

This Rule is not applicable to small businesses.

7. GREENHOUSE GAS IMPACT: *EXPLAIN HOW THE RULE WAS CRAFTED TO REDUCE THE EXTENT TO WHICH GREENHOUSE GASES ARE EMITTED, EITHER DIRECTLY OR INDIRECTLY, FROM THE FOLLOWING SECTORS OF ACTIVITIES:*

a. TRANSPORTATION —

*IMPACTS BASED ON THE TRANSPORTATION OF PEOPLE OR PRODUCTS (e.g., "THE RULE HAS PROVISIONS FOR CONFERENCE CALLS INSTEAD OF TRAVEL TO MEETINGS" OR "LOCAL PRODUCTS ARE PREFERENTIALLY PURCHASED TO REDUCE SHIPPING DISTANCE. "):*  
None.

b. LAND USE AND DEVELOPMENT —

*IMPACTS BASED ON LAND USE AND DEVELOPMENT, FORESTRY, AGRICULTURE ETC. (e.g., "THE RULE WILL RESULT IN ENHANCED, HIGHER DENSITY DOWNTOWN DEVELOPMENT." OR "THE RULE MAINTAINS OPEN SPACE, FORESTED LAND AND /OR AGRICULTURAL LAND. "):*

The Rule requires projects involving construction of brand new wastewater treatment facilities and sewer line extensions to demonstrate that they will not contribute to scattered development prior to being eligible for loan or grant funding.

c. BUILDING INFRASTRUCTURE —

*IMPACTS BASED ON THE HEATING, COOLING AND ELECTRICITY CONSUMPTION NEEDS (e.g., "THE RULE PROMOTES WEATHERIZATION TO REDUCE BUILDING*

*HEATING AND COOLING DEMANDS.” OR “THE PURCHASE AND USE OF EFFICIENT ENERGY STAR APPLIANCES IS REQUIRED TO REDUCE ELECTRICITY CONSUMPTION.”):*

The Rule awards points to projects that incorporate energy efficiency measures, including thermal efficiency improvements to buildings.

d. WASTE GENERATION / REDUCTION —

*IMPACTS BASED ON THE GENERATION OF WASTE OR THE REDUCTION, REUSE, AND RECYCLING OPPORTUNITIES AVAILABLE (e.g., “THE RULE WILL RESULT IN REUSE OF PACKING MATERIALS.” OR “AS A RESULT OF THE RULE, FOOD AND OTHER ORGANIC WASTE WILL BE COMPOSTED OR DIVERTED TO A ‘METHANE TO ENERGY PROJECT’.”):*

None.

e. OTHER —

*IMPACTS BASED ON OTHER CRITERIA NOT PREVIOUSLY LISTED:*

The Rule awards points to projects that produce renewable energy and projects that involve the co-generation of energy and heat.

# Administrative Procedures – Public Input Statement

## Instructions:

In completing the public input statement, an agency describes what it did do, or will do to maximize the involvement of the public in the development of the rule. This form must be completed for the following filings made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

1. TITLE OF RULE FILING:

Municipal Pollution Control Priority System

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

Prior to filing the Rule with ICAR, the Department held two meetings with stakeholders. One larger meeting with stakeholders was held on April 6, 2017. A follow-up focus group, with a smaller group of stakeholders, was held on June 7, 2017.

The Department plans to engage further with stakeholders during the rulemaking process and will hold a public meeting during the public comment period, carefully review all public comments, and provide a detailed responsiveness summary.

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

Organizations and entities involved thus far include:

Department of Environmental Conservation, including the Facilities Engineering Division, Watershed Management Division, and Drinking Water and Groundwater Protection Division

Agency of Commerce and Community Development

City of Burlington

City of Rutland

City of South Burlington

Green Mountain Water Environment Association

Vermont Rural Water

Vermont League of Cities and Towns

USDA Rural Development

Consulting Engineers

Additional general categories of stakeholders that may be involved going forward include:

Municipalities

Environmental organizations and nonprofits

Environmental consultants

Developers, including the Associated Industries of Vermont, Associated General Contractors, and Home Builders and Remodelers Association

(802) 828-2863

MEMORANDUM

OFFICE OF THE SECRETARY OF STATE

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To: Eric Blatt, P.E. Agency of Natural Resources 1 National Life Drive,  
Main 1, Montpelier VT 05620 Tel: 802-585-4901 Email:  
eric.blatt@vermont.gov URL: <http://dec.vermont.gov/facilities-engineering/rules>. FOR COPIES: Elizabeth Schilling, Esq. Agency of  
Natural Resources 1 National Life Drive, Davis 2, Montpelier, VT  
05620 Tel: 802-490-6102 Email: elizabeth.schilling@vermont.gov.

From: Louise Corliss, APA Clerk

RE: Municipal Pollution Control Priority System.

Date 08/18/2017

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We received Proposed Rule on 08/17/2017

Final Proposed Rule on

Adopted Rule on

We have assigned the following rule number(s):

Proposed Rule Number: 17P030

Adopted Rule Number:

(Final Proposals are not assigned a new number; they retain  
the Proposed Rule Number.)

The following problems were taken care of by phone/should be  
taken care of immediately:

We cannot accept this filing until the following problems  
are taken care of:

The ad for this proposed rule appeared/will appear in  
newspapers of record on 08/31/2017 & / / .

This rule takes effect on

Adoption Deadline:

Please note:

If you have any questions, please call me at 828-2863. OR  
E-Mail me at: [louise.corliss@sec.state.vt.us](mailto:louise.corliss@sec.state.vt.us)

cc: Charlene Dindo